

## **NOTICES OF PROPOSED RULEMAKING**

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### **NOTICE OF PROPOSED RULEMAKING**

#### **TITLE 9. HEALTH SERVICES**

#### **CHAPTER 5. DEPARTMENT OF HEALTH SERVICES CHILD CARE FACILITIES**

#### **PREAMBLE**

#### **1. Sections Affected**

Article 1  
R9-5-101  
R9-5-102  
R9-5-201  
R9-5-202  
Table 1  
R9-5-203  
R9-5-204  
R9-5-204  
R9-5-204  
R9-5-205  
R9-5-205  
R9-5-206  
R9-5-206  
R9-5-207  
R9-5-207  
R9-5-208  
R9-5-209  
R9-5-509  
Article 7  
R9-5-701  
R9-5-701  
R9-5-702  
R9-5-702  
Table 2  
R9-5-703  
R9-5-703  
R9-5-704  
R9-5-705  
R9-5-705  
R9-5-706  
R9-5-706  
R9-5-707  
R9-5-708

#### **Rulemaking Action**

Amend  
Amend  
New Section  
Amend  
Amend  
New Table  
Amend  
Repeal  
Renumber  
Amend  
Renumber  
Amend  
Renumber  
Amend  
Renumber  
New Section  
Amend  
Amend  
Amend  
Repeal  
New Section  
Repeal  
New Section  
New Table  
Repeal  
New Section  
Amend  
Repeal  
New Section  
Repeal  
New Section  
Amend  
New Section

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**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 36-136(F), 36-883, 36-883.04, 36-897.01, and 36-897.02

Implementing statutes: A.R.S. §§ 36-882, 36-883, 36-883.02, 36-885, 36-888, 36-897.03, 36-897.05, 36-897.06, and 36-897.08

**3. A list of all previous notices appearing in the Register addressing the proposed rule**

Notice of Rulemaking Docket Opening: 7 A.A.R. 67, January 5, 2001

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services  
Office of Administrative Rules  
1740 W. Adams, Room 102  
Phoenix, AZ 85007

Phone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphilli@hs.state.az.us

or

Name: Lourdes Ochoa, Health Program Manager III

Address: Arizona Department of Health Services  
Division of Assurance and Licensure Services  
Office of Child Care Licensure  
1647 E. Morten Ave., Suite 230  
Phoenix, AZ 85020

Phone: (602) 674-4220

Fax: (602) 861-0674

E-mail: lochoa@hs.state.az.us

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

**a. CHILD CARE FACILITIES**

**i. Background**

A.R.S. Title 36, Chapter 7.1, Article 1 provides the Department with statutory authority to license and regulate child care facilities. The rules in 9 A.A.C. 5, Articles 2 through 6 implement those statutes by setting requirements for licensure, facility administration, facility staff, facility programs and equipment, and the physical plant of a facility. Article 2 contains provisions for initial and renewal license applications; time-frames; fingerprinting; child care service classifications; changes affecting licensure; inspections and investigations; and denial, revocation, or suspension of a license. Article 5 contains requirements for facility programs and equipment and includes food preparation and service requirements.

Laws 1998, Chapter 270 amended A.R.S. Title 36, Chapter 7.1, Article 1 by moving the responsibility for fingerprinting checks from the Department to the Department of Public Safety, adding the concept of class one and class two fingerprint clearance cards, changing the deadline for an employee of a child care facility to comply with fingerprinting requirements, and expressly requiring an applicant for licensure to have a class one or class two fingerprint clearance card.<sup>1</sup>

Laws 1999, Chapter 11 also amended the fingerprinting provisions in A.R.S. Title 36, Chapter 7.1, Article 1 by clarifying the requirements for volunteers in child care facilities and by amending the list of offenses included.

Laws 2000, Chapter 77 amended A.R.S. Title 36, Chapter 7.1, Article 1 by defining "substantial compliance"; incorporating "substantial compliance" into licensing requirements; and amending requirements for posting information, fingerprinting, records inspection, civil penalties, and intermediate sanctions. Laws 2000, Chapter 251, § 10 further amended the fingerprinting requirements of A.R.S. Title 36, Chapter 7.1, Article 1.

Laws 2001, Chapter 152 amended A.R.S. Title 36, Chapter 7.1, Article 1 by defining “controlling person”, amending application requirements for child care facility licensure, amending eligibility requirements for child care facility licensure, requiring an applicant or licensee to provide the Department with written notice when a controlling person changes, and requiring an applicant or licensee to designate an agent to receive communications from the Department. Laws 2001, Chapter 350 amended A.R.S. § 36-883.02 by removing an exception for individuals fingerprinted under A.R.S. §§ 15-512 and 15-534. Laws 2001, Chapter 350 also added a requirement that child care personnel certify that they have not been denied or had revoked a license to operate a child care facility or a certificate to operate a child care group home in Arizona or another state and have not been denied or had revoked certification to work in a child care facility or child care group home. Finally, Laws 2001, Chapter 350 clarified that a child care facility may not allow an individual to be employed or volunteer in a child care facility if the individual has been denied a class two fingerprint clearance card or has not received an interim approval from the Board of Fingerprinting.

In addition, on October 3, 2001, the new rules for food establishments, contained in 9 A.A.C. 8, Article 1, took effect. These rules completely replace the previous rules for food establishments, including those within child care facilities.

ii. This Rulemaking

The proposed rules for 9 A.A.C. 5, Article 2 include the rule changes necessary to ensure consistency with the statutory changes in Laws 1998, Chapter 270; Laws 1999, Chapter 11; Laws 2000, Chapters 77 and 251; and Laws 2001, Chapters 152 and Chapter 350. This rulemaking also makes the rules consistent with the new rules for food establishments in 9 A.A.C. 8, Article 1.

The proposed rules also increase the time-frames for child care facility licensure. The Department has tracked the child care facility licensure process since adopting time-frames in October 1997 and has determined that the substantive review time-frames for initial and renewal license applications are inadequate. In October 1997, there were only 1,671 licensed child care facilities in Arizona. Currently, there are more than 2,063 licensed child care facilities and several hundred applications pending. The Department has found that the time needed to complete a substantive review has been affected by increases in licensed capacity, a broader spectrum of services offered, location (more and more child care facilities are located in outlying areas of the state), and creative uses of physical plants for child care facilities. As the child care industry has evolved and expanded to meet the needs of the state’s increasing population, industry needs and facility inspections have become more and more complex. Department resources have not increased in response to the increase in child care facilities licensed or the increase in the complexity of the child care industry.<sup>2</sup> Thus, the Department is proposing to increase the substantive review time-frames for initial and renewal applications to better reflect the time needed to complete processing.<sup>3</sup>

As a result of the tracking process, the Department has also determined that it initially underestimated the length of time necessary to complete an administrative completeness review of and process a renewal application. Thus, the Department is also proposing to increase the administrative completeness review time-frame for renewal applications to 30 days to make it consistent with the administrative completeness review time-frame for an initial license.

In addition, the Department has determined that it needs time-frames for approval of changes affecting a license. In 1997, the Department did not consider this approval to be a “license” as defined in the Administrative Procedure Act. However, the Department has determined that this approval is indeed a “license.” Thus, this rulemaking adds time-frames for this approval process.

This rulemaking also adds a requirement that a facility licensee notify the Department in writing before it changes a facility director. Because this is not an approval process, it does not require time-frames. The Department has been requesting this notification for some time, and this rulemaking adds this requirement formally in a new Section.

This rulemaking also amends the definitions that relate to child care facilities to bring them up to date and to make them consistent with the changes in the rules. In addition, the rulemaking adds a new Section at R9-5-102 to clarify which individuals are responsible to act for an applicant or licensee in completing and signing documents, complying with fingerprinting requirements, and complying with Department-provided training requirements. In Article 5, this rulemaking amends R9-5-509 to make it consistent with the new rules for food establishments, which are contained in 9 A.A.C. 8, Article 1. Finally, this rulemaking amends the language of the rules to reflect current Department practices; to make the rules clear, concise, and understandable; and to bring the rules into conformance with current rule-making format and style requirements.

b. CHILD CARE GROUP HOMES

i. Background

A.R.S. Title 36, Chapter 7.1, Article 4 provides the Department with statutory authority to certify and regulate child care group homes. The rules in 9 A.A.C. 5, Articles 7 through 10 implement those statutes by setting requirements for

child care group home certification, administration, staff qualifications, programs and equipment, and physical facility standards. Currently, there are 295 certified child care group homes and 100 applications for certification pending.

Article 7 contains provisions for initial and renewal certification applications; fingerprinting; changes affecting certification; inspections and investigations; and denial, revocation, or suspension of certification. Article 7 currently lacks time-frames. When the rules were adopted in 1990, there was not yet a requirement to have time-frames, and these rules have not been amended since their adoption.

Laws 1998, Chapter 270 amended A.R.S. Title 36, Chapter 7.1, Article 4 by moving the responsibility for fingerprint checks from the Department to the Department of Public Safety, adding the concept of class one and class two fingerprint clearance cards, changing the deadline by which an employee of a child care group home is required to comply with fingerprinting requirements, and expressly requiring an applicant for child care group home certification to have a class one or class two fingerprint clearance card.<sup>4</sup>

Laws 1999, Chapter 11 also amended the fingerprinting provisions in A.R.S. Title 36, Chapter 7.1, Article 4 by clarifying the responsibilities of volunteers and adding to the list of criminal offenses.

Laws 2000, Chapter 77 amended A.R.S. Title 36, Chapter 7.1, Article 4 by defining “substantial compliance”; incorporating “substantial compliance” into certification requirements; adding injunction authority; and amending requirements for fingerprinting, records inspection, civil penalties, and intermediate sanctions. Laws 2000, Chapter 251, §§ 11 and 12 further amended the fingerprinting requirements of A.R.S. Title 36, Chapter 7.1, Article 4.

ii. This Rulemaking

The proposed rules for 9 A.A.C. 5, Article 7 include the rule changes necessary to ensure consistency with the statutory changes in Laws 1998, Chapter 270; Laws 1999, Chapter 11; and Laws 2000, Chapters 77 and 251.

The proposed rules also establish time-frames for initial and renewal applications for child care group home certification and for approval of changes affecting certification.

This rulemaking also adds a requirement that a certificate holder notify the Department in writing before it changes a provider. Because this is not an approval process, it does not require time-frames. The Department has been requesting this notification for some time, and this rulemaking adds this requirement formally in a new Section.

This rulemaking also amends the definitions that relate to child care group homes to bring them up to date and to make them consistent with the changes in the rules. In addition, the rulemaking adds a new Section at R9-5-102 to clarify which individuals are responsible to act for an applicant or certificate holder in completing and signing documents, complying with fingerprinting requirements, and complying with Department-provided training requirements. Finally, this rulemaking amends the language of the rules in Article 7 to reflect current Department practices; to make the rules clear, concise, and understandable; and to bring the rules into conformance with current rulemaking format and style requirements.

**Endnotes**

<sup>1</sup>Although Laws 1998, Chapter 270 went into effect on August 16, 1999, § 28 of the session law contains a grandfather clause for individuals who were fingerprinted before July 1, 2000, and who do not change employment, apply for certification or recertification, or enter into a contract that requires fingerprinting. The Department has, consistent with legal advice and with the apparent intention of the legislature that child care workers be fingerprinted every three years, interpreted this as providing a three-year grace period for child care workers who were fingerprinted before July 1, 2000, and who have not changed employment. Thus, these individuals are not required to be fingerprinted under the current process until August 16, 2002, which is reflected in the proposed rules.

<sup>2</sup>Although the Department received legislative authorization to hire additional surveyors for the Office of Child Care Licensure, the current state of the budget has made it impossible for the Department to fill those positions, which are now on hold. In addition, vacancies are no longer being filled.

<sup>3</sup>In the past four years, the Office of Child Care Licensure has been out of compliance with its time-frames 19 times.

<sup>4</sup>Although Laws 1998, Chapter 270 went into effect on August 16, 1999, § 28 of the session law contains a grandfather clause for individuals who were fingerprinted before July 1, 2000, and who do not change employment, apply for certification or recertification, or enter into a contract that requires fingerprinting. The Department has, consistent with legal advice and with the apparent intention of the legislature that child care workers be fingerprinted every three years, interpreted this as providing a three-year grace period for child care workers who were fingerprinted before

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July 1, 2000, and who have not changed employment. Thus, these individuals are not required to be fingerprinted under the current process until August 16, 2002, which is reflected in the proposed rules.

**6. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Department will incur moderate-to-substantial costs from this rulemaking. The Department will incur moderate-to-substantial costs from implementing the new time-frames for approval of a change affecting a facility license and will incur moderate costs from implementing the new time-frames for child care group homes. In addition, the Department will incur minimal-to-moderate costs from implementing the new time-frames for approval of a change affecting a child care group home certificate and will incur moderate costs from the rulemaking process itself.

The rules will minimally burden a small portion of the regulated community—only those licensees who change the locations of their facilities—because the rules eliminate a provision exempting these people from attending the four-hour Department-provided training required to get a new license. The Department has for some time encouraged these people to attend the training, because this type of refresher training seems to assist licensees in maintaining compliance with the rules.

Otherwise, this rulemaking benefits the public and the regulated community. Making the rules consistent with statutory requirements will minimally benefit the public and the regulated community by alleviating any confusion that exists because of the inconsistencies between the requirements in statute and in rule. This will also minimally benefit the Department, because the Department will receive fewer inquiries regarding the inconsistencies between statute and rule. In addition, amending the administrative completeness review and substantive review time-frames for the licensure of child care facilities will provide the public and the regulated community with a more accurate assessment of the length of time necessary for completing the licensure process. Establishing time-frames for the certification of child care group homes, for approval of a change affecting a license, and for approval of a change affecting a certificate will benefit the public and the regulated community by notifying the public and the regulated community of the length of time necessary to obtain these approvals. Amending the rules for licensure and certification to reflect current Department practices will also minimally benefit the public and the regulated community by clarifying the responsibilities of an applicant, licensee, or certificate holder. This clarification will also benefit the Department, because there will be less confusion surrounding these responsibilities and thus fewer inquiries to the Department regarding these responsibilities.

Updating the definitions in 9 A.A.C. 5 will also minimally benefit the public and the regulated community by alleviating any confusion caused by those definitions that are out of date. Updating the definitions will also minimally benefit the Department, because the Department will no longer receive inquiries regarding the meanings of the terms for which the definitions are out of date. In addition, adding a new Section at R9-5-102 to clarify which individuals are responsible to act for an applicant, licensee, or certificate holder in completing and signing documents, complying with fingerprinting requirements, and complying with Department-provided training requirements will minimally benefit the public and the regulated community by alleviating confusion that exists in this area and will minimally benefit the Department because the Department will no longer receive inquiries in this area.

Because the changes made in response to Laws 1998, Chapter 270; Laws 1999, Chapter 11; Laws 2000, Chapters 77 and 251; and Laws 2001, Chapters 152 and 350 are required by statute, economic impacts resulting from these changes do not result from this rulemaking and are not included within this summary. Likewise, the changes in R9-5-509 necessitated by the revision of 9 A.A.C. 8, Article 1 are not included in this summary because they derive from the revision of 9 A.A.C. 8, Article 1, not from this rulemaking.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services  
Office of Administrative Rules  
1740 W. Adams, Room 102  
Phoenix, AZ 85007

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Phone: (602) 542-1264  
Fax: (602) 364-1150  
E-mail: kphilli@hs.state.az.us  
or  
Name: Lourdes Ochoa, Health Program Manager III  
Address: Arizona Department of Health Services  
Division of Assurance and Licensure Services  
Office of Child Care Licensure  
1647 E. Morten Ave., Suite 230  
Phoenix, AZ 85020  
Phone: (602) 674-4220  
Fax: (602) 861-0674  
E-mail: lochoa@hs.state.az.us

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department has scheduled the following oral proceeding:

Date: February 5, 2002  
Time: 9:00 a.m.  
Location: Arizona Department of Health Services  
Division of Assurance and Licensure Services  
Hearing Room  
1647 E. Morten Ave.  
Phoenix, AZ 85020  
Nature: Oral Proceeding

Written comments on the proposed rulemaking or the preliminary economic, small business, and consumer impact summary may be submitted to the individuals listed in items #4 and #9 until the close of record at 5:00 p.m. on February 5, 2002.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their locations in the rules:**

Not applicable

**13. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 5. DEPARTMENT OF HEALTH SERVICES**

**CHILD CARE FACILITIES**

**ARTICLE 1. ~~DEFINITIONS~~ GENERAL**

Section

R9-5-101. Definitions

R9-5-102. Individuals to Act for Applicant, Licensee, or Certificate Holder Regarding Document, Fingerprinting, and Department-Provided Training Requirements

**ARTICLE 2. FACILITY LICENSURE**

Section

R9-5-201. Application for a License

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R9-5-202.	<del>Initial License Application</del> Time-frames
Table 1.	<del>Time-frames</del> (in days)
R9-5-203.	<del>Registration and</del> Fingerprinting Requirements
R9-5-204.	<del>Revocation, Denial, or Reconsideration of Registration</del>
<del>R9-5-205.</del> R9-5-204.	<del>Child Care Services</del> <u>Service</u> Classifications
<del>R9-5-206.</del> R9-5-205.	<del>License Renewal</del>
<del>R9-5-207.</del> R9-5-206.	<del>Changes Affecting a</del> License
R9-5-207.	<u>Change in Director</u>
R9-5-208.	Inspections; Investigations
R9-5-209.	Denial, Revocation, or Suspension of License

**ARTICLE 5. FACILITY PROGRAM AND EQUIPMENT**

Section	
R9-5-509.	General Food Service and Food Handling Standards

**ARTICLE 7. CHILD CARE GROUP HOME CERTIFICATION ~~OF DAY CARE GROUP HOME~~**

Section	
R9-5-701.	<del>Initial certification</del> <u>Application for a Certificate</u>
R9-5-702.	<del>Certificate to operate a child care group home</del> <u>Time-frames</u>
Table 2.	<u>Time-frames</u> (in days)
R9-5-703.	<del>Denial of Certification</del> <u>Fingerprinting Requirements</u>
R9-5-704.	<u>Certificate</u> <del>Renewal of Certification</del>
R9-5-705.	<del>Suspension or revocation of certification</del> <u>Changes Affecting a Certificate</u>
R9-5-706.	<del>Notice of changes</del> <u>Change in Provider</u>
R9-5-707.	<del>Complaints; investigations</del> <u>Inspections; Investigations</u>
R9-5-708.	<del>Denial, Revocation, or Suspension of Certificate</del>

**ARTICLE 1. DEFINITIONS**

**R9-5-101. Definitions**

In this Chapter, unless otherwise specified the following terms mean:

1. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement, or the infliction of or allowing another individual to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior, and which emotional damage is diagnosed by a medical doctor or psychologist as prescribed by A.R.S. § 8-223 and which is caused by the acts or omissions of an individual having care, custody, and control of a child. Abuse includes the offenses stated in A.R.S. § 8-546(A)(2); has the same meaning as in A.R.S. § 8-201.
2. "Accident" means an unexpected occurrence ~~that may or may not be an emergency~~ that:
  - a. ~~causes~~ Causes physical injury to a child,
  - b. ~~and requires~~ Requires attention ~~by~~ from a staff member, and
  - c. May or may not be an emergency.
3. "Accommodation school" has the same meaning as in A.R.S. § 15-101.
- ~~3.4.~~ "Accredited" means approved by the:
  - a. New England Association of Schools and Colleges,
  - b. Middle States Association of Colleges and Secondary Schools,
  - c. North Central Association of Colleges and Schools,
  - d. Northwest Association of Schools and Colleges,
  - e. Southern Association of Colleges and Schools, or
  - f. Western Association of Schools and Colleges.
- ~~4.5.~~ "Activity" means an action planned by a licensee, certificate holder, or provider and performed by a child while supervised by a staff member.
- ~~5.6.~~ "Activity area" means a specific indoor or outdoor space or room of a licensed facility or certified child care group home that is designated by a licensee or certificate holder for use by enrolled children for activities.
- ~~6.7.~~ "Adaptive device" means equipment used to augment an individual's use of the individual's arms, legs, sight, hearing, or other physical part or function.
8. "Adult" means an individual who is at least 18 years of age.
- ~~7.9.~~ "Age-appropriate" means consistent with a child's age and age-related stage of physical growth and mental development.

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10. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
- 8-11. "Applicant" means an individual or business organization requesting one of the following:
- a. ~~The following persons requesting an~~ An initial or renewal license:
    - i. If an individual, the individual owning the facility;
    - ii. If a corporation, any 2 officers of the corporation;
    - iii. If an association or cooperative, any 2 members of the governing board of the association or cooperative;
    - iv. If a limited liability company, the designated manager, or, if no manager is designated, any 2 members of the limited liability company;
    - v. If a partnership, any 2 of the partners;
    - vi. If a joint venture, any 2 individuals signing the joint venture agreement;
    - vii. If a public school, any individual designated in writing as signatory for the facility by the school governing board or school district superintendent;
    - viii. If a charter school, the person approved to operate a charter school in Arizona by the Arizona Board of Education, Arizona Board of Charter Schools, or a school governing board; or
    - ix. If a governmental agency, the director of the governmental agency or the individual designated in writing by the director; or
  - b. An initial or renewal certificate.
  - ~~b.c. A licensee submitting a request for a modification to the physical plant of a licensed facility~~ Approval of a change affecting a license under R9-5-206; or
  - d. Approval of a change affecting a certificate under R9-5-705.
- 9-12. "Application" means the documents ~~required by that an applicant is required to submit to the Department for licensure, or registration certification, or approval of a request for a change affecting a license or a certificate.~~
- 10-13. "Assistant teacher-caregiver" means a staff member who, for compensation, aids a teacher-caregiver in planning, developing, or conducting child care activities.
- 11-14. "Association or cooperative" means a group of individuals other than a corporation, limited liability company, partnership, joint venture, or public school who have established a governing board and bylaws to operate a facility or a child care group home.
15. "Beverage" means a liquid for drinking, including water.
16. "Business organization" means an entity such as an unincorporated association, a corporation, a limited liability company, a partnership, or a governmental entity.
- 12-17. "Calendar week" means a ~~7-day~~ seven-day period beginning on Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m.
- 13-18. "C.C.P." means Certified Childcare Professional, a credential awarded by the National Child Care Association to ~~individuals~~ an individual who has successfully completing completed a test of ability to work effectively with children.
- 14-19. "C.D.A." means Child Development Associate, a credential awarded by the Child Development Associate National ~~Credentia~~ Credentialing Program to ~~individuals~~ an individual who has successfully completing completed a test of ability to work effectively with children.
20. "Certificate" means the written authorization issued by the Department to operate a child care group home in Arizona.
21. "Certificate holder" means a person to whom the Department has issued a certificate to operate a child care group home in Arizona.
22. "Certified capacity" means the maximum number of children for whom a certificate holder is authorized by the Department to provide child care services at a child care group home at any given time.
- 15-23. "Change in ownership" means a transfer of controlling legal or controlling equitable interest and authority in a facility or child care group home resulting from a sale or merger of a facility or child care group home.
24. "Charter school" has the same meaning as in A.R.S. § 15-101.
- 16-25. "Child" has the same meaning as in A.R.S. § ~~36-881(1)~~ 36-881.
- 17-26. "Child care" has the same meaning as in A.R.S. § ~~36-881(2)~~ 36-881.
- 18-27. "Child care experience" means ~~written documentation of~~ documented work with children in:
- a. A child care facility or a child care group home that is licensed, certified, or approved by a state in the United States or by one of the Uniformed Services of the United States;
  - b. A public school, a charter school, ~~or a private school, or an accommodation school as defined in A.R.S. § 15-101(1); or~~
  - c. A public or private educational institution authorized under the laws of another state where instruction was provided for any grade or combination of grades between early kindergarten and grade 12; or
  - ~~e.d. The One of the following professional fields:~~
    - i. ~~of nursing~~ Nursing,



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- ii. ~~social~~ Social work,
  - iii. ~~psychology~~ Psychology,
  - iv. ~~child~~ Child development, or
  - v. A closely related field.
28. "Child care group home" has the same meaning as in A.R.S. § 36-897.
- ~~19-29.~~ "Child care services" means the range of activities and programs provided by a licensee or certificate holder to a child, including personal care, supervision, education, guidance, and transportation.
- ~~20-30.~~ "Child Protective Services" means the Child Protective Services Program, of the Arizona Department of Economic Security.
- ~~21-31.~~ "Child with special needs" means a child with:
- a. A child with a health care provider's diagnosis and record of a physical or mental condition that substantially limits the child in providing self-care or performing age-appropriate manual tasks or any other major life function such as walking, seeing, hearing, speaking, breathing, or learning;
  - b. A child with a "developmental disability" as defined in A.R.S. § 36-551; or
  - c. ~~At least 1 of the developmental disabilities listed in A.R.S. § 15-761 and who requires special education~~ A "child with a disability" as defined in A.R.S. § 15-761.
- ~~22-32.~~ "Clean" means to remove dirt or debris by such methods as washing with soap and water, vacuuming, wiping, dusting, or sweeping.
- ~~23-33.~~ "Closely related field" means any educational instruction or occupational experience pertaining to the growth, development, physical or mental care, or education of children.
- ~~24-34.~~ "Communicable disease" has the same meaning as in A.A.C. ~~R9-6-101(5)~~ R9-6-101.
- ~~25-35.~~ "Compensation" means money or other consideration, including goods, services, vouchers, time, or ~~other~~ another benefit, that is received by a licensee or certificate holder from any individual as payment for child care services or that is ~~paid to~~ received by a staff member ~~by~~ from a licensee or certificate holder as payment for working in a child care facility or child care group home.
36. "Controlling person" means a person who:
- a. Has through ownership, the power to vote at least ten per cent of the outstanding voting securities.
  - b. If the applicant or licensee is a partnership, is the general partner or a limited partner who holds at least ten per cent of the voting rights of the partnership.
  - c. If the applicant or licensee is a corporation, an association or a limited liability company, is the president, the chief executive officer, the incorporator, an agent or any person who owns or controls at least ten per cent of the voting securities.
  - d. Holds a beneficial interest in ten per cent or more of the liabilities of the applicant or the licensee.
- ~~26-37.~~ "Corporal punishment" means any physical action that inflicts pain to the body of a child; ~~including but not limited to: shaking, spanking, punching, hitting, pinching, biting, pushing, slapping, twisting, jerking, kicking, pulling hair, or strangling a child; or any act which that~~ may result in an abrasion, bruise, welt, contusion, laceration, burn, wound, cut, puncture, internal injury, fracture, sprain or dislocation, or a subdural hemorrhage or hematoma ~~injury to the body of a child.~~
- ~~27-38.~~ "C.P.C." means Certified Professional in Childcare, a credential awarded by the National Early Care and Education Association to ~~individuals~~ an individual who has successfully ~~completing~~ completed a test of ability to work effectively with children.
- ~~28-39.~~ "CPR" means cardiopulmonary resuscitation.
- ~~29-40.~~ "Credit hour" means an ~~earned~~ academic unit of study ~~based on~~ earned at an accredited college or university by attending a ~~1-hour~~ one-hour class session per each calendar week ~~at an accredited college or university~~ during a semester or completing equivalent practical work as part of a course during a semester.
- ~~30-41.~~ "Days" means calendar days, ~~not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.~~
42. "Designated agent" means an individual who is:
- a. A controlling person;
  - b. A United States citizen or legal resident alien;
  - c. A resident of Arizona; and
  - d. Authorized by an applicant or licensee to receive communications, including service of process, from the Department and to file and sign documents for the applicant or licensee.
- ~~31-43.~~ "Developmentally appropriate" means consistent with a child's physical, emotional, social, cultural, and cognitive development, based on the child's age and family background and the ~~individual~~ child's personality, learning style, and pattern and timing of growth, ~~personality, and learning style.~~
- ~~32-44.~~ "Discipline" means to ~~provide correction of~~ correct a child's behavior that does not meet generally accepted levels of social behavior.

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- ~~33-45.~~ “Emergency” means a potentially life-threatening occurrence involving a child or staff member that requires an immediate response or medical treatment.
- ~~34-46.~~ “Endanger” means to expose ~~a child~~ to a situation where physical or mental injury ~~to the child~~ may occur.
- ~~35-47.~~ “Enrolled” means ~~a child has been~~ placed by a parent and accepted by a licensee or certificate holder for child care services.
- ~~48.~~ “Evening and nighttime care” means child care services provided between the hours of 8:00 p.m. and 5:00 a.m.
- ~~36-49.~~ “Facility” means “child care facility” as defined in A.R.S. § ~~36-881(3)~~ 36-881.
- ~~37-50.~~ “Facility director” means an individual meeting the qualifications in R9-5-401(1) who is designated by a licensee as the individual responsible for the daily onsite operation of a facility.
- ~~38-51.~~ “Facility premises” means property that is:
- a. Designated on an application for a license or certificate by the applicant, and
  - b. Licensed or certified for child care services by the Department under A.R.S. § ~~36-881 et seq.~~ Title 36, Chapter 7.1, Article 1 or 4 and these rules.
- ~~39-52.~~ “Field trip” means an activity planned by ~~child care personnel~~ a staff member for:
- a. Preschool children off facility premises, or
  - b. School-age children off facility premises or school campus.
- ~~40-53.~~ “Final construction drawings” means facility plans ~~approved by local government for the construction or modification of a facility~~ that include the architectural, structural, mechanical, electrical, fire protection, plumbing, and technical specifications of the physical plant and the facility premises and that have been approved by local government for the construction or modification of a facility.
- ~~54.~~ “Food” means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption or chewing gum.
- ~~41-55.~~ “Food preparation” ~~or “preparing food” means handling, washing, cutting, mixing, spreading, combining ingredients, and cooking foods using a utensil as defined in A.A.C. R9-8-112(35) but does not include:~~
- a. Using single-service articles as defined in A.A.C. R9-8-112(30);
  - b. ~~Handling or distributing whole fruits or vegetables;~~
  - c. ~~Distributing prepackaged foods, or~~
  - d. Combining whole uncooked foods processing food for human consumption by cooking or assembling the food, but does not include distributing prepackaged food or whole fruits or vegetables.
- ~~56.~~ “Full-day care” means child care services provided for six or more hours per day between the hours of 5:00 a.m. and 8:00 p.m.
- ~~42-57.~~ “Guidance” means the ongoing direction, counseling, teaching, or modeling of generally accepted social behavior through which a child learns to develop and maintain the self-control, self-reliance, and self-esteem necessary to assume responsibilities, make daily living decisions, and live according to generally accepted social behavior.
- ~~43-58.~~ “Hazard” means a source of endangerment.
- ~~44-59.~~ “Health care provider” means a state board licensed, registered, or certified physician; ~~physician’s~~ physician assistant; nurse; registered nurse practitioner; psychologist; or occupational, physical, or respiratory therapist.
- ~~45-60.~~ “High school equivalency diploma” means:
- a. ~~the A~~ document issued by the Arizona Department of Education under A.R.S. § 15-702 ~~or by another state~~, to an individual who passes a general educational development test or meets the requirements of A.R.S. § 15-702(B);
  - b. A document issued by another state to an individual who passes a general educational development test or meets the requirements of a state statute equivalent to A.R.S. § 15-702(B); or
  - c. A document issued by another country to an individual who has completed that country’s equivalent to a 12th grade education, as determined by the Department based upon information obtained from American or foreign consulates or embassies or other governmental entities.
- ~~46-61.~~ “Hours of operation” means the specific time during a day for which a licensee or certificate holder is licensed or certified to provide child care services.
- ~~47-62.~~ “Illness” means physical manifestation or signs of ~~any~~ sickness, ~~or communicable disease~~ such as pain, vomiting, rash, fever, discharge, or diarrhea.
- ~~48-63.~~ “Infant” means:
- a. ~~a~~ A child 12 months of age or younger, or
  - b. ~~a~~ A child 18 months of age or younger who is not yet walking.
- ~~64.~~ “Infant care” means child care services provided to an infant.
- ~~49-65.~~ “Infestation” means the presence of lice, pinworms, scabies, or other parasites.
- ~~50-66.~~ “Inspection” means:
- a. ~~on-site~~ Onsite examination of a facility by the Department to determine compliance with A.R.S. § ~~36-881 et seq.~~ Title 36, Chapter 7.1, Article 1 and these rules;
  - b. Onsite examination of a child care group home by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules;

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- c. ~~an on-site~~ Onsite review of facility or child care group home records or reports by the Department; or
- d. ~~on-site~~ Onsite examination of a facility or a child care group home by a local ~~jurisdiction's~~ governmental entity.
- 54-67. "Lesson plan" means a written description of the activities scheduled in each activity area for a day.
- 52-68. "License" means the written authorization issued by the Department to operate a facility in Arizona.
- 53-69. "Licensed capacity" means the maximum number of children for whom a licensee is ~~licensed~~ authorized by the Department to provide child care services in a facility or a part of a facility at any given time.
- 54-70. "Licensee" means a person, as defined by A.R.S. § ~~36-881(6)~~ 36-881, to whom the Department ~~issues~~ has issued a license to operate a facility in Arizona.
- 55-71. "Local" means under the jurisdiction of a city or county in Arizona.
- 56-72. "Mat" means a foam pad that has a waterproof cover and is of sufficient size and thickness to accommodate the height, width, and weight of a reclining child's body.
- 57-73. "Medication" means a substance prescribed by a physician, physician assistant, or registered nurse practitioner or available ~~over the counter~~ without a prescription for the treatment or prevention of illness or infestation.
- 58-74. "Menu" means:
- a. a written description of the food provided by that a facility or child care group home provides and served serves as a meal or snack, or
  - b. The combination of food that a facility or child care group home provides and serves as a meal or snack.
- 59-75. "Modification" means an alteration or addition to the physical plant of a licensed facility that ~~requires~~ may or may not require a permit issued by local government.
- 60-76. "Motor vehicle" has the same meaning as ~~defined~~ in A.R.S. § ~~28-101(28)~~ 28-101.
- 61-77. "N.A.C." means the National Administrator Credential, ~~an award~~ a credential issued by the National Child Care Association to an individual who has successfully completing completed a test of ability to work effectively with children as a director of a child care facility.
- 62-78. "Naptime" means any time during hours of operation, other than evening and nighttime hours ~~specified in R9-5-205~~, that is designated by a licensee for the rest or sleep of children.
- 63-79. "Neglect" has the same meaning as in A.R.S. § ~~8-546(A)(7)~~ 8-201.
80. "Nurse" means an individual who is:
- a. Licensed under A.R.S. Title 32, Chapter 15 as a practical nurse or as a registered, graduate, or professional nurse; or
  - b. Licensed as a practical nurse or a registered nurse under the law of another state.
- 64-81. "One-year-old" means a child who is at least 12 months of age or older who is but not yet ~~2~~ two years of age.
82. "One-year-old child care" means child care services provided to a one-year old.
- 65-83. "Parent" means:
- a. ~~a natural; or adoptive; or custodial~~ mother or father of a child, or an
  - b. A individual who has been appointed as a legal guardian appointed by a court of competent jurisdiction, or
  - c. A "custodian" of a child by a court of competent jurisdiction as defined in A.R.S. § 8-201.
84. "Part-day care" means child care services provided for fewer than six hours per day between the hours of 5:00 a.m. and 8:00 p.m.
- 66-85. "Perishable food" means food ~~which~~ that becomes unfit for human consumption if not stored to prevent spoilage.
86. "Person" means:
- a. In Articles 2 through 6, the same as in A.R.S. § 36-881; and
  - b. In Articles 7 through 10, an individual or a business organization.
87. "Personal reference" means an adult who is familiar with a director's, a provider's, or a staff member's character due to observations made as a friend or acquaintance.
- 67-88. "Physical plant" means a building that houses a facility or a child care group home, or licensed or certified areas within a building that houses a facility or a child care group home, including the architectural, structural, mechanical, electrical, plumbing, and fire protection elements of the building.
- 68-89. "Physician" means an individual licensed as a doctor currently licensed to practice of:
- a. ~~allopathic~~ Allopathic medicine under A.R.S. Title 32, Chapter 13;
  - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
  - c. ~~or osteopathic~~ Osteopathic medicine under A.R.S. Title 32, Chapter 17;
  - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29; or
  - e. in any Allopathic, naturopathic, osteopathic, or homeopathic medicine under the law of another state of the United States.
90. "Physician assistant" means:
- a. An individual who is licensed under A.R.S. Title 32, Chapter 25 and who performs health care tasks pursuant to a dependent relationship with a physician; or
  - b. An individual who is licensed as a physician assistant under the law of another state.

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91. "Preparing food" means processing food for human consumption by cooking or assembling the food, but does not include distributing prepackaged food or whole fruits or vegetables.
- ~~69-92.~~ "Private pool" has the same meaning as in 9 A.A.C. R9-8-811(J) 8, Article 8.
- ~~70-93.~~ "Private school" has the same meaning as in A.R.S. § 15-101(16) 15-101.
94. "Professional reference" means an adult who is familiar with a director's, a provider's, or a staff member's work abilities due to observations made as a supervisor or leader in a business, school, church, or other organizational setting.
- ~~71-95.~~ "Program" means a variety of activities organized and conducted by a staff member.
96. "Provider" means the certificate holder or a person the certificate holder designates in writing who, pursuant to applicable statutes and rules, is to be responsible for direct daily supervision, operation and maintenance of the child care group home.
- ~~72-97.~~ "Public pool" has the same meaning as in 9 A.A.C. R9-8-811(K) 8, Article 8.
- ~~73-98.~~ "Public school" means school as defined in A.R.S. § 15-101(3) and (17) a government-operated educational institution established for the purpose of offering instruction to pupils in programs for preschool children with disabilities, kindergarten programs, or any combination of grades one through twelve.
74. "Registration" means approval by the Department to operate or work in a child care facility after an individual's completion of the fingerprinting process required by the Department.
99. "Registered nurse practitioner" means:
- a. An individual who:
    - i. Is licensed as a registered, graduate, or professional nurse under A.R.S. Title 32, Chapter 15;
    - ii. Is certified by the Arizona State Board of Nursing through its rules for extended nursing practice; and
    - iii. Has completed a nurse practitioner education program approved or recognized by the Arizona State Board of Nursing; or
  - b. An individual who is licensed as a registered nurse practitioner under the law of another state.
- ~~75-100.~~ "Regular basis" means child care services are offered at a facility at recurring, fixed, or uniform intervals.
- ~~76-101.~~ "Resident" means:
- a. In reference to residency in a child care facility or child care group home, an individual who does not provide work in the child care facility or child care group home, but who is present in a uses the child care facility or child care group home as the individual's principal place of habitation for 30 days or more during the calendar year; and
  - b. In reference to residency in Arizona, the same as in A.R.S. § 43-104 for more than 30 consecutive days.
- ~~77-102.~~ "Sanitize" means to use heat, chemical agents, or germicidal solutions to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
- ~~78-103.~~ "School-age child" means a child who:
- a. is 5 years of age or older before beginning Attends kindergarten or a higher level program in a public, charter, accommodation, or private school during the current school year;
  - b. in a Attended kindergarten or a higher level program in a public, charter, accommodation, or private school during the most recent school year;
  - c. Is home schooled at a kindergarten or higher level during the current school year; or
  - d. Was home schooled at a kindergarten or higher level during the most recent school year.
104. "School-age child care" means child care services provided to a school-age child.
- ~~79-105.~~ "School campus" means the contiguous grounds of a public, charter, accommodation, or private school, including the buildings, structures, and outdoor areas available for use by children attending the school.
- ~~80-106.~~ "School governing board" means has the same meaning as "governing board" as defined in A.R.S. § 15-101(8) 15-101.
- ~~81-107.~~ "Semi-public pool" has the same meaning as in 9 A.A.C. R9-8-811(N) 8, Article 8.
- ~~82-108.~~ "Service classification" means + one of the classifications specified in R9-5-205 following:
- a. Full-day care.
  - b. Part-day care.
  - c. Evening and nighttime care.
  - d. Infant care.
  - e. One-year-old child care, or
  - f. School-age child care.
- ~~83-109.~~ "Signed" means having affixed with an individual's name signature consistent with customary usage on an official document or with a symbol of the name representing an individual's signature if the individual is unable to write the individual's name.
- ~~84-110.~~ "Space utilization" means the designated use of an area within a facility or a child care group home for specific child care services or activities.

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- 85-~~111~~. "Staff"; or "staff member"; or "child care personnel" means ~~any employee or volunteer working at a child care facility~~ an individual who works in a facility or a child care group home, regardless of whether compensation is received by the individual.
- 86-~~112~~. "STRIVE" means Family, Career, and Community Leaders of America, formerly known as Students Together Rising in Vocational Education, a vocational career and technical student organization authorized by the Arizona Department of Education under A.R.S. § 15-781.01.
- 87-~~113~~. "Student-aid" means ~~an individual 15 years of age or younger~~ under the age of 16 who is enrolled in an educational, curriculum-based course of study and who, without being compensated by a licensee, is present at a facility to receive instruction from and supervision by child care personnel in the provision of child care services.
88. "~~Substantive review~~" means ~~the Department's process for determining whether an applicant for a license and an applicant's facility meet the requirements of A.R.S. § 36-881 et seq. and these rules, including an evaluation of the completed documents submitted as prescribed by R9-5-201 and R9-5-203(A) and inspection of the facility.~~
114. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of an applicant for licensure [or certification as a child care group home] or a licensed child care facility [or certified child care group home] does not pose a direct risk to the life, health or safety of children.
- 89-~~115~~. "Supervision" means:
- a. The physical presence of a facility director, provider, or staff member who has responsibility for and is within sight and sound of an enrolled child, or
  - b. The physical presence of a facility director, provider, or teacher-caregiver who is providing direction to and is within sight and sound of a staff member or student-aid.
- 90-~~116~~. "Swimming pool" has the same meaning as in 9 A.A.C. ~~R9-8-811(P)~~ 8, Article 8.
- 94-~~117~~. "Teacher-caregiver" means a staff member responsible for developing, planning, and conducting child care activities.
- 92-~~118~~. "Training" means child care-related conferences, seminars, lectures, workshops, classes, courses, or instruction required by the Department of a licensee, certificate holder, provider, or child care personnel staff member.
- 93-~~119~~. "Volunteer" means a staff member who works in a facility without compensation ~~by the facility.~~

**R9-5-102. Individuals to Act for Applicant, Licensee, or Certificate Holder Regarding Document, Fingerprinting, and Department-Provided Training Requirements**

When an applicant, licensee, or certificate holder is required by this Chapter to provide information on or sign documents, possess a class one or two fingerprint clearance card, or complete Department-provided training, the following shall satisfy the requirement on behalf of the applicant, licensee, or certificate holder:

1. If the applicant, licensee, or certificate holder is an individual, the individual;
2. If the applicant, licensee, or certificate holder is a corporation, an officer of the corporation;
3. If the applicant, licensee, or certificate holder is a partnership, two of the partners;
4. If the applicant, licensee, or certificate holder is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
5. If the applicant, licensee, or certificate holder is an association or cooperative, two members of the governing board of the association or cooperative;
6. If the applicant, licensee, or certificate holder is a joint venture, two of the individuals signing the joint venture agreement;
7. If the applicant, licensee, or certificate holder is a public school, an individual designated in writing as signatory for the public school by the school governing board or school district superintendent;
8. If the applicant, licensee, or certificate holder is a charter school, the person approved to operate the charter school by the district governing board, the Arizona Board of Education, or the Arizona Board for Charter Schools;
9. If the applicant, licensee, or certificate holder is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
10. If the applicant, licensee, or certificate holder is a business organization type other than those described in subsections (2) through (9), two individuals who are members of the business organization.

**ARTICLE 2. FACILITY LICENSURE**

**R9-5-201. Application for a License**

A. An applicant for a license shall:

1. Be at least 18 years of age or older;
2. If an individual, be a U.S. citizen or legal resident alien and a resident of Arizona;
3. If a corporation, association, or limited liability company, be a domestic entity or a foreign entity qualified to do business in Arizona;
4. If a partnership, have at least one partner who is a U.S. citizen or legal resident alien and a resident of Arizona;
- ~~2-5. Submit the following completed documents to the Department an application packet that includes:~~

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- a. A notarized application form signed by the applicant stating:
  - i. The applicant's name;
  - ii. The facility's name, street address, mailing address, and telephone number; ~~and~~
  - iii. ~~The name and applicant's~~ type of business organization ~~applying for a license;~~
  - iv. The name and business or residential address of each controlling person;
  - v. That no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state;
  - vi. That no controlling person has had a license to operate a child care facility or a certificate to operate a child care group home revoked in this state or another state for reasons that relate to endangerment of the health and safety of children;
  - vii. Whether the applicant agrees to allow the Department to submit supplemental requests for information; and
  - viii. That the applicant has read and will comply with these rules and declares that the information provided in the application is true and complete;
- b. ~~Organization information~~ If the applicant is a business organization, an Attachment to Application including the following organizational information about the applicant:
  - i. ~~Address~~ The address of the business organization;
  - ii. ~~Name, title, and address of the organization's statutory agent or individual designated by the organization to accept service of process and subpoenas;~~
  - iii-ii. ~~Name and~~ The name, title, and address of each officer and board member or trustee, if applicable; and
  - iv-iii. ~~Copies~~ A copy of the business organization's Articles articles of Incorporation incorporation, articles of organization, or partnership or joint venture documents, or limited liability documents, if applicable;
- c. ~~Registration documents as prescribed in R9-5-203~~ A copy of the applicant's valid class one or class two fingerprint clearance card issued according to A.R.S. § 41-1758.03;
- d. A Criminal History Affidavit Class II completed by the applicant and including the information required by A.R.S. § 36-883.02;
- e. A certificate issued by the Department showing that the applicant has completed at least four hours of Department-provided training that included the Department's role in licensing and regulating child care facilities under A.R.S. Title 36, Chapter 7.1, Article 1 and these rules;
- f. If the applicant is an individual, a copy of one of the following for the applicant:
  - i. A U.S. passport,
  - ii. A birth certificate,
  - iii. Naturalization documents, or
  - iv. Documentation of legal resident alien status;
- g. If the applicant is a corporation or a limited liability company, a certificate of good standing issued to the applicant by the Arizona Corporation Commission and dated within six months before the date of application;
- h. If the applicant is a partnership or an association, a copy of one of the following for one partner or association member of the applicant:
  - i. A U.S. passport,
  - ii. A birth certificate,
  - iii. Naturalization documents, or
  - iv. Documentation of legal resident alien status;
- i. The following information about the applicant's designated agent:
  - i. Name;
  - ii. Residential and business addresses;
  - iii. Residential and business telephone numbers; and
  - iv. Residential and business facsimile numbers, if any;
- j. A copy of one of the following for the applicant's designated agent:
  - i. A U.S. passport,
  - ii. A birth certificate,
  - iii. Naturalization documents, or
  - iv. Documentation of legal resident alien status;
- ~~d-k.~~ The physical plant documents required by R9-5-607 that include the service classifications being requested by the applicant;
- l. An Applicant, Staff, and Resident Report Form, including the applicant's name and address; a statement that the information on the form is accurate; the dated signature of the applicant; and the following information about the applicant, each staff member, and each resident:
  - i. Name;
  - ii. Social security number;
  - iii. Birth date;

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- iv. Hire date, if applicable;
  - v. Job title, if a staff member, or relationship to the applicant or director, if a resident;
  - vi. Date of high school diploma or high school equivalency diploma, if applicable; and
  - vii. Information demonstrating each individual's compliance with A.R.S. § 36-883.02;
  - e.m. An agricultural attachment that contains the information required by A.R.S. § 36-882(B) Agricultural Land Notification Form, including the names and addresses of the owners or lessees of all agricultural land located within one-fourth mile of the facility;
  - n. If the facility is located within one-fourth mile of agricultural land, and a child care facility has not previously been licensed at the same location, a copy of an agreement complying with A.R.S. § 36-882(D) for each parcel of agricultural land affected;
  - o. A Director Qualifications form completed by the individual that the applicant intends to have serve as facility director, including:
    - i. The name of the individual;
    - ii. The facility's name, address, and telephone number;
    - iii. A statement that the individual is at least 21 years of age, will accept the primary responsibility for the daily administration and operation of the facility, and possesses the minimum qualifications required by R9-5-401;
    - iv. An indication of the individual's academic experience complying with R9-5-401;
    - v. A list of the individual's qualifying child care experience, including beginning and ending dates; positions held; each facility's name, address, and telephone number; a description of the experience at each facility; and the number of hours per week worked at each facility;
    - vi. A copy of the individual's transcript from each high school, college, university, or other educational facility attended by the individual, showing the name and location of the educational facility; the course of study pursued at the educational facility; the date of any diploma or degree attained at the educational facility; and the number of credit hours completed or the diploma or degree attained at the educational facility;
    - vii. A copy of the certificate of attendance from each child-care workshop attended by the individual;
    - viii. A statement that the individual has provided the licensee with the names, addresses, and telephone numbers of two professional references and two personal references and with at least one written professional reference and one written personal reference;
    - ix. A statement that the information in the Director Qualifications Form is true and complete; and
    - x. The signature of the individual; and
  - f.p. The fee required by A.R.S. § 36-882(F) 36-882; .
3. Before the issuance of a license, submit written documentation verifying that the applicant or a registered individual designated by the applicant has completed not less than 4 actual hours of Department provided training that includes the Department's role in licensing and regulating child care facilities under A.R.S. §§ 36-881 et seq. and these rules; and
4. Demonstrate compliance with A.R.S. §§ 36-881 et seq. and these rules through a facility inspection by the Department.
- B. A person shall apply for a license as prescribed by this Section for The Department requires a separate license and a separate application for:
1. Each facility operated by the same person at a different locations location, and
  2. Each facility operated by a different persons person at the same location.
- C. The Department does not require an a separate application for a supplementary structure that is:
1. Located on the same grounds contiguous to a as the facility,
  2. under Under the same ownership as the facility, and
  3. intended Intended to be used in conjunction with a the facility.

**R9-5-202. Initial License Application Time-frames**

- A.** For an initial license, the overall time frame described in A.R.S. § 41-1072 (2) is 90 days.
- B.** For an initial license, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is 30 days and begins on the date the Department receives an application:
1. If any of the application documents are missing or if information on the submitted documents is deficient, the Department shall send to the applicant, by certified mail with return receipt, a written notice that states each deficiency and information and document needed to complete the application. The 30 day time frame for the Department to finish the administrative completeness review is suspended from the date the Department mails the deficiency notice to the applicant until the date the Department receives the deficient information or missing document.
  2. If all of the documents are submitted and the information on the documents is complete, the Department shall send a written notice of administrative completeness to the applicant.

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3. ~~If the documents or information are not submitted within 180 days from the date of notice of incompleteness, the Department shall consider the application withdrawn.~~
- ~~C.~~ For an initial license, the substantive review time-frame described in A.R.S. § 41-1072(3) is 60 days and begins on the date the Department sends written notice of administrative completeness to the applicant.
  1. ~~As part of the substantive review, the Department may schedule an inspection which may require more than 1 visit to the facility.~~
  2. ~~If an applicant or facility does not meet the requirements of A.R.S. §§ 36-881 et seq. and these rules, the Department shall provide to the applicant a written notice of nonconformance that states each statute and rule upon which nonconformance is based.~~
    - a. ~~Within 120 days from the date of receipt of a written notice of nonconformance the applicant shall submit, to the Department, written documentation of the corrections required in the notice of nonconformance. The 60-day time-frame for the Department to finish the substantive review is suspended from the date the Department provides the written notice of nonconformance to the applicant until the Department receives documentation of corrections.~~
    - b. ~~The Department shall issue a written notice of denial of license as prescribed in A.R.S. §§ 36-888 and 41-1076, if:~~
      - i. ~~The applicant does not submit documentation of corrections within the time-frame in subsection (C)(2)(a); or~~
      - ii. ~~Upon receipt of documentation of corrections from the applicant, the Department determines that the applicant or facility do not meet the requirements of A.R.S. §§ 36-881 et seq. and these rules.~~
  3. ~~If the applicant and facility meet the requirements of A.R.S. § 36-881 et seq. and these rules, the Department shall issue a license to the applicant.~~
- ~~D.~~ ~~If a time-frame's last day falls on a Saturday, Sunday, or a legal holiday, the next business day will be considered the time-frame's last day.~~
- A. The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is set forth in Table 1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is set forth in Table 1 and begins on the date that the Department receives an application.
  1. The Department shall send a notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the items needed to complete the application.
    - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is issued until the date that the Department receives all of the missing items from the applicant.
    - c. If an applicant for an initial license, a license renewal, or an approval of a change affecting a license fails to submit to the Department all of the items listed in the notice of deficiencies within 180 days after the date that the Department sent the notice of deficiencies, the Department shall consider the application withdrawn.
  2. If the Department issues a license or other approval to the applicant during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 1 and begins on the date of the notice of administrative completeness.
  1. As part of the substantive review for an initial license application or a license renewal application, the Department shall conduct an inspection that may require more than one visit to the facility.
  2. As part of the substantive review for a request for approval of a change affecting a license, the Department may conduct an inspection that may require more than one visit to the facility.
  3. The Department shall send a license or a written notice of approval or denial of a license or other request for approval to an applicant within the substantive review time-frame.
  4. During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the Department and the applicant have agreed in writing to allow the Department to submit supplemental requests for information.
    - a. If the Department determines that an applicant or a facility is not in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 1 and these rules, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.



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- b. An applicant shall submit to the Department all of the information requested in the comprehensive written request for additional information and written documentation of the corrections required in the statement of deficiencies, if applicable:
  - i. Within 120 days after the date of the comprehensive written request for additional information, if applying for an initial license or for approval of a change affecting a license; or
  - ii. Within 10 days after the date of the comprehensive written request for additional information, if applying for a license renewal.
- c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department issues a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including documentation of corrections required in a statement of deficiencies, if applicable.
- d. If an applicant fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including documentation of corrections required in a statement of deficiencies, if applicable, within the time prescribed in subsection (C)(4)(b), the Department shall deny the application.
- 6. The Department shall issue a license or approval if the Department determines that the applicant and facility are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 1 and these rules, and the applicant submits a plan of correction that is acceptable to the Department for any deficiencies.
- 7. If the Department determines that a license or approval is to be denied, the Department shall send to the applicant a written notice of denial complying with A.R.S. § 36-888 and setting forth the reasons for denial and all other information required by A.R.S. §§ 36-888 and 41-1076.

**Table 1. Time-frames (in days)**

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Review Time-frame</u>	<u>Substantive Review Time-frame</u>
<u>Initial License under R9-5-201</u>	<u>A.R.S. § 36-882</u>	<u>120</u>	<u>30</u>	<u>90</u>
<u>License Renewal under R9-5-205</u>	<u>A.R.S. § 36-882</u>	<u>150</u>	<u>30</u>	<u>120</u>
<u>Approval of Change Affecting License under R9-5-206</u>	<u>A.R.S. §§ 36-882, 36-883</u>	<u>75</u>	<u>30</u>	<u>45</u>

**R9-5-203. Registration and Fingerprinting Requirements**

- A. An applicant for a license shall apply for registration with the Department by submitting: A licensee shall ensure that each staff member and each adult resident at a facility:
- 1. Unless exempted by A.R.S. § 36-883.02, a completed and legible fingerprint card; Possesses a valid class one or class two fingerprint clearance card issued under A.R.S. § 41-1758.03; or
  - 2. A registration to work form, provided by the Department, completed and signed by the applicant, and notarized that contains: Submits to the licensee, within seven working days after becoming a staff member or adult resident, a copy of a fingerprint clearance card application showing that the application was submitted to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02.
    - a. The applicant's name, birth date, social security number, home address, telephone number, and job title;
    - b. If previously registered with the Department, the date of previous registration and name used for registration;
    - c. The facility name, address, telephone number;
    - d. An identification of whether the applicant is awaiting trial on, has been convicted of, or has admitted in open court or as prescribed by a plea agreement committing any criminal offense described in A.R.S. § 36-883.02(G);
    - e. Certification that the applicant is not a parent of a child who has been adjudicated dependent as prescribed by A.R.S. § 8-201(11); and
    - f. Certification that the applicant has not had a license to operate a facility denied or revoked in any state; and
  - 3. A registration recap form provided by the Department, completed by the applicant for licensure or licensee, which contains the:
    - a. Name, address, and telephone number of the facility;
    - b. Name of facility director; and
    - c. Name of each individual applying for registration.

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- B.** Within 20 days from the date of employment or volunteer service of each staff member, a licensee shall submit the information in subsection (A) for each staff member who is 18 years of age or older. If a staff member or adult resident possesses a class one or class two fingerprint clearance card that was issued before the staff member or adult resident became a staff member or adult resident at the facility, the licensee shall contact the Department of Public Safety to determine whether the class one or class two fingerprint clearance card is valid. The licensee shall make a record of this determination, including the name of the staff member or adult resident, the date of the contact with the Department of Public Safety, and whether the class one or class two fingerprint clearance card is valid.
- C.** Within 30 days of receipt of an application for registration, the Department shall return to the applicant or licensee a copy of the registration recap form with verification of the Department's receipt. The individuals listed on the verified registration recap form are registered with the Department to work in the child care facility listed on the recap form until the Department denies or revokes the registration. A licensee shall not allow an individual to be a staff member or adult resident if the individual has been denied a class two fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1 and has not received an interim approval under A.R.S. § 41-619.55(H).
- D.** A licensee shall not allow an individual to be a staff member or adult resident if the individual receives an interim approval under A.R.S. § 41-619.55(H) but is then denied a good cause exception under A.R.S. § 41-619.55 and a class two fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1.
- ~~D.E.~~** A registered licensee or staff member who has had an uninterrupted association with or continuous employment in a licensed facility which changes ownership, shall submit the documents in subsections (A)(2) and (A)(3) to the Department within 20 days from the date of ownership change. A staff member who was fingerprinted before July 1, 2000, and who has not changed employment since being fingerprinted is not required to comply with subsection (A)(1) or (2) until August 16, 2002.
- F.** A licensee shall ensure that each staff member and adult resident submits to the licensee an original of the form required in A.R.S. § 36-883.02(D). A form completed while a staff member or adult resident was a staff member or adult resident at another facility does not satisfy this subsection.
- G.** A licensee shall maintain documentation of compliance with this Section in each staff member's or adult resident's file throughout an individual's time as a staff member or adult resident and for 12 months after an individual ceases to be a staff member or adult resident.

**~~R9-5-204.~~ Denial, Revocation, or Reconsideration of Registration**

- ~~A.~~** The Department shall deny or revoke the registration of an individual:
- 1.** Who is awaiting trial on, has been convicted of, or has admitted in open court or as prescribed by a plea agreement, committing any criminal offense listed in A.R.S. § 36-883.02 (G) except as provided in A.R.S. § 36-883.02 (L); or
  - 2.** Whose presence in a facility may have a detrimental effect on the health, safety, or welfare of children based on evidence obtained from:
    - a.** A law enforcement agency;
    - b.** Any criminal, civil, or official proceeding of record;
    - c.** A written psychological evaluation or professional opinion of:
      - i.** A physician licensed by a state board of medical examiners;
      - ii.** A psychologist licensed by a state board of psychologist examiners;
      - iii.** A behavioral health professional certified by the Arizona board of behavioral health examiners or the equivalent agency from another state; or
      - iv.** A social worker, therapist, or counselor certified or licensed by a state board or by a professional accrediting organization or agency for these professions; or
    - d.** Child Protective Services.
- ~~B.~~** If the Department has determined an individual may have a detrimental effect on the health, safety, or welfare of children or an individual has committed one of the offenses listed in A.R.S. § 36-883.02(G), not subject to A.R.S. § 36-883.02(L), the Department shall send a written notice of denial or revocation of registration to the:
- 1.** Individual, by certified mail with return receipt, that states:
    - a.** The reason for the denial or revocation of registration, and
    - b.** The individual's right to a hearing by the Department if requested in writing within 30 days from the receipt of the Department's notice.
  - 2.** Licensee or applicant for licensure within 5 days of the individual's receipt of the notice required in subsection (B)(1).
- ~~C.~~** If an individual has committed one of the offenses in A.R.S. § 36-883.02(L), the Department shall determine whether the individual is a recidivist. An individual is not a recidivist if the individual meets the following requirements:
- 1.** If the offense was a felony, 5 years or more have passed between the conviction of the offense and the date the individual submitted a complete application for registration and the individual is not awaiting trial on, has not been convicted of, or has not admitted in open court or as prescribed by a plea agreement, committing any felony within the last 5 years or any misdemeanor within the last 2 years ; or

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2. If the offense was a misdemeanor, 2 years or more have passed between the conviction of the offense and the date the individual submitted a complete application for registration and the individual is not awaiting trial on, has not been convicted of, or has not admitted in open court or as prescribed by a plea agreement, committing any felony within the last 5 years or any misdemeanor within the last 2 years.
- D.** If an individual does not meet the requirements of subsection (C), the Department shall send a written notice of denial or revocation to the:
  1. Individual, by certified mail with return receipt, that states:
    - a. The reason for the denial or revocation of registration, and
    - b. The individual's right to a hearing by the Department if requested in writing within 30 days from the receipt of the Department's notice.
  2. Licensee or applicant for licensure within 5 days of the individual's receipt of the notice required in subsection (B)(1).
- E.** If an individual meets the requirements of subsection (C), the Department shall send to the individual, by certified mail with return receipt, a written notice of intent to deny the registration. The notice shall state:
  1. The criminal offense that was disclosed by the fingerprint check; and
  2. The Department's process for reconsideration of the registration denial.
- F.** Within 30 days from the date of receipt of a notice of intent to deny a registration, an individual may submit a request for reconsideration to the Department that contains the individual's name, address, and telephone number and written documentation that demonstrates the individual is rehabilitated including:
  1. Employment history of at least 6 months of continuous employment, with no more than 7 consecutive days break in employment within 2 years before the date of receipt of a completed application, including the name, address, and telephone number of each employer or educational history that shows the completion of at least 2 consecutive semesters at a post secondary education institution within 2 years before the date of receipt of a completed application, including the dates of enrollment and completion of course work;
  2. Two written references from individuals, 18 years of age or older and not related by blood or marriage to the individual, who have known the individual for at least 6 months before the date of receipt of a completed application;
  3. An explanation of why the individual believes the individual has been rehabilitated;
  4. Any other documentation which the individual believes supports the individual's claim of being rehabilitated; and
  5. A copy of any court record, such as conviction notice, plea bargain agreement, presentence investigation, minute entry, probation termination or completion document, or any expungement or pardon record that pertains to each crime for which the individual has been convicted. If the individual is unable to provide court documents for each conviction, the individual shall provide written documentation from the court having jurisdiction stating the reason the records are unavailable.
- G.** Within 30 days from the date of receipt of the written documentation required by subsection (F), the Department shall determine whether the individual meets the requirements in subsection (F). If the individual meets the requirements, the Department shall send a written notice of registration to the individual. If the individual does not meet the requirements, the Department shall deny the registration following the requirements in subsection (B).
- H.** If an individual does not request a reconsideration within 30 days from the date of receipt of the notice of intent to deny, the Department shall, by certified mail with return receipt, issue a notice of denial containing the information in subsection (B).
- I.** An individual who has been denied registration as prescribed in subsection (G) or (H) shall not submit an application for registration until 12 months has elapsed from the date of the notice of registration denial. The Department shall return an application for registration to an individual who has been denied registration as prescribed in subsection (G) or (H) if the application is submitted less than 12 months from the date of the notice of registration denial.

**R9-5-205, R9-5-204, Child Care Services Service Classifications**

- A.** When conducting a substantive review, the ~~The~~ Department shall determine whether the licensee meets the licensure requirements of A.R.S. §§ 36-881 et seq. and these rules to provide child care services on a regular basis in 1 or more of licenses child care facilities using the following service classifications:
  1. Full-day care: ~~Child care services provided for 6 or more hours per day between the hours of 5 a.m. and 8 p.m.,~~
  2. Part-day care: ~~Child care services provided for less than 6 hours per day between the hours of 5 a.m. and 8 p.m.,~~
  3. Evening and nighttime care: ~~Child care services provided between the hours of 8 p.m. and 5 a.m.,~~
  4. Infant care: ~~Child care services provided to an infant as defined in R9-5-101(48),~~
  5. One-year-old child care: ~~Child care services provided to a one-year old child as defined in R9-5-101(64), and~~
  6. School-age child care: ~~Child care services provided to a school-age child as defined in R9-5-101(78).~~
- B.** The Department shall designate, on a facility's license, the ~~service classifications of child care services~~ the facility is licensed to provide. A licensee shall not provide child care services in a service classification for which the licensee is not licensed.

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**R9-5-206; R9-5-205. License Renewal**

- A. At least 45 days before the expiration date of a current license, an applicant for renewal of a license shall submit to the Department an application packet including:
1. A ~~complete, signed, and~~ notarized application form signed by the applicant that includes:
    - a. The applicant's name;
    - b. The facility's name, street address, mailing address, and telephone number; ~~and~~
    - c. The ~~name and~~ applicant's type of business organization ~~applying for license renewal; and~~
    - d. A statement that the applicant has read and will comply with these rules and declares that the information provided in the application is true and complete;
  2. ~~Any~~ An Attachment to Application including any changes to the ~~organization~~ information previously submitted as prescribed in ~~R9-5-201(A)(2)(b)~~ R9-5-201(A)(5); and
  3. The fee required by A.R.S. § ~~36-882(F)~~ 36-882.
- B. ~~For a renewal license, the overall time frame described in A.R.S. § 41-1072(2) is 45 days. An applicant that submits the items required by subsection (A) later than 45 days before the expiration date of the current license shall submit to the Department the late filing fee required by A.R.S. § 36-882.~~
- C. ~~For a renewal license, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is 15 days and begins on the date the Department receives the renewal application. If an applicant submits the items required by subsection (A) and the fee required by subsection (B), if applicable, before the expiration date of the current license, the current license does not expire until the date specified in A.R.S. § 41-1092.11(A).~~
1. ~~If the submitted documents are deficient, the Department shall send to the applicant, by certified mail with return receipt, the submitted documents and a deficiency notice:~~
    - a. ~~The notice shall:~~
      - i. ~~State each deficiency and the information needed to complete the documents; and~~
      - ii. ~~Advise the applicant that an additional \$50 late filing fee is due if a complete renewal application is not received by the Department at least 45 days before the expiration date of the current license.~~
    - b. ~~The 15-day time frame for the Department to finish the administrative completeness review is suspended from the date the Department mails the deficiency notice to the applicant until the date the Department receives the information.~~
    - c. ~~If an applicant does not submit a complete renewal application before the expiration date of the current license, the license shall expire.~~
  2. ~~If the submitted documents are complete:~~
    - a. ~~The Department shall send a written notice of administrative completeness to the applicant; and~~
    - b. ~~The current license shall not expire until the Department issues the renewal license or written notice of denial.~~
- D. ~~For a renewal license, the substantive review time frame described in A.R.S. § 41-1072(3) is 30 days and begins on the date the Department sends written notice of administrative completeness to the applicant.~~
1. ~~If an applicant or facility does not meet the requirements of A.R.S. § 36-881 et seq. and these rules, the Department shall provide to the applicant a written notice of nonconformance that states each statute and rule upon which nonconformance is based:~~
    - a. ~~Within 10 days from the date of receipt of a written notice of non-conformance the applicant shall submit, to the Department, written documentation of the corrections required in the notice of nonconformance. The 30-day time frame for the Department to finish the substantive review is suspended from the date the Department provides the written notice of nonconformance to the applicant until the Department receives documentation of corrections.~~
    - b. ~~The Department shall issue a written notice of denial of license as prescribed in A.R.S. §§ 36-888 and 41-1076, if:~~
      - i. ~~The applicant does not submit documentation of corrections within the time frame in subsection (D)(1)(a); or~~
      - ii. ~~Upon receipt of documentation of corrections from the applicant, the Department determines that the applicant or facility do not meet the requirements of A.R.S. § 36-881 et seq. and these rules.~~
  2. ~~If the applicant and facility meet the requirements of A.R.S. § 36-881 et seq. and these rules, the Department shall issue a license to the applicant.~~

**R9-5-207; R9-5-206. Changes Affecting a License**

- A. ~~A licensee shall notify the Department in writing at~~ At least 30 days before the date of a change in a facility's name, a licensee shall send the Department written notice of the name change. Within 30 days ~~from~~ after the date of receipt of the notice, the Department shall issue an amended license that incorporates the name change but retains the expiration date of the current license.

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- B.** ~~A licensee shall submit a written request to the Department at~~ At least 30 days before the date of an intended change in a facility's service classification, space utilization, or licensed capacity, that includes a licensee shall submit a written request for approval of the change to the Department. The written request shall include:
1. The licensee's name;
  2. The facility's name, street address, mailing address, and telephone number;
  3. The name, telephone number, and facsimile number of a point of contact for the request;
  4. The facility's license number;
  5. ~~the~~ The type of change intended:
    - a. Service classification,
    - b. Space utilization, or
    - c. Licensed capacity; and
  6. ~~a~~ A narrative description of the intended change; and
  7. The following additional information, as applicable:
    - a. If the intended change affects individual rooms, the following information about each affected room:
      - i. Room name or number,
      - ii. Square footage,
      - iii. Operating hours,
      - iv. Ages of the children to receive care in the room,
      - v. Maximum number of children to receive care in the room, and
      - vi. Whether the room has a diaper changing area;
    - b. If the intended change is to increase licensed capacity, the square footage of the outdoor activity area; and
    - c. If the intended change includes a modification to a licensed facility, the following, as applicable:
      - i. If the facility is not located in a public school, a set of final construction drawings, in compliance with R9-5-607(B);
      - ii. If the facility is located in a public school and provides child care for children younger than school-age children, a set of final construction drawings or a school map, in compliance with R9-5-607(C);
      - iii. If the facility is located in a public school and provides child care only for school-age children, two sets of final construction drawings or two school maps, in compliance with R9-5-607(D); and
      - iv. If the facility is a factory-built building, the documents required by R9-5-607(E).
- ~~1-C.~~ Within 30 days from the date of receipt of the request, the Department shall review the requested change and send written notice of the review to the licensee a request submitted under subsection (B) in accordance with R9-5-202. If the facility will be in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 1 and these rules with the intended change:
- a. Complies with A.R.S. §§ 36-881 et seq. and these rules, the Department shall send the licensee an amended license that incorporates the change but retains the expiration date of the current license, ~~or~~
  - b. Does not comply with A.R.S. §§ 36-881 et seq. and these rules, the Department shall provide the licensee with written notice stating the requirements necessary for the Department to approve the requested change.
- ~~2-D.~~ A licensee shall not implement any change described under subsection (B) until the Department issues an amended license is issued.
- ~~C-E.~~ A licensee shall notify the Department, in writing, At least 30 days before making the date of a change in the ownership of a facility, a licensee shall send the Department written notice of the change. A new owner shall obtain a new license from the Department as prescribed in R9-5-201 before beginning operation of the facility.
- ~~D-F.~~ A licensee changing a facility's location shall apply for a new license as prescribed by in R9-5-201. If the licensee has completed the training required in R9-5-201(A)(3), the licensee is not required to repeat the training.
- ~~E.~~ A licensee that is a corporation or a limited liability company shall notify the Department in writing within 30 days after the date of a change in any corporate or company officer or statutory agent.
- ~~F.~~ A licensee that is a partnership or a joint venture shall notify the Department in writing within 30 days after the date of a change in members of the partnership or joint venture, or of an individual designated in writing by the licensee to accept service of process and subpoenas.
- ~~G.~~ A licensee that is an association or cooperative, school governing board, or charter school shall notify the Department in writing within 30 days after the date of a change in the officers of the association, cooperative, school governing board, or charter school, or of the statutory agent or other individual designated in writing by the licensee to accept service of process and subpoenas.
- ~~G.~~ Within 30 days after the election of a new officer or director or a change in a controlling person, a licensee shall send the Department written notice of the change. The written notice shall include:
1. The name of the licensee;
  2. A description of the change made;
  3. The following information about each controlling person:
    - a. Name, and

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- b. Business or residential address;
- 4. A statement that no controlling person has been denied a certificate to operate a child care group home or a license to operate a child care facility for the care of children in this state or another state;
- 5. A statement that no controlling person has had a license to operate a child care facility or a certificate to operate a child care group home revoked in this state or another state for reasons that relate to endangerment of the health and safety of children;
- 6. A statement that the information provided in the written notice is true, complete, and accurate; and
- 7. The notarized signature of the licensee.
- H.** Within 30 days after changing its designated agent, a licensee shall send the Department written notice of the change, to include:
  - 1. The name of the new designated agent;
  - 2. The residential and business addresses of the new designated agent; and
  - 3. A copy of one of the following for the new designated agent:
    - a. A U.S. passport.
    - b. A birth certificate.
    - c. Naturalization documents, or
    - d. Documentation of legal resident alien status.

**R9-5-207.        Change in Director**

- A.** Except as provided in subsection (B), within 10 days before changing a facility director, a licensee shall send the Department written notice of the change.
- B.** If a licensee is not aware of a change in facility director 10 days before the effective date of the change, the licensee shall send the Department written notice within 48 hours after becoming aware of the change.
- C.** The written notice shall include a Director Qualifications form completed as required by R9-5-201(A)(2)(i).

**R9-5-208.        Inspections; Investigations**

- A.** The Department shall inspect each facility before issuing an initial license or a renewal license; and as often as necessary to determine compliance with A.R.S. ~~§ 36-881 et seq.~~ Title 36, Chapter 7.1, Article 1 and these rules. ~~Additionally, a A~~ licensee shall allow access to all areas of the facility affecting the health, safety, or welfare of ~~a an enrolled~~ child or to which ~~a an enrolled~~ child has access during hours of operation.
- B.** If the Department receives written or verbal information alleging a violation of A.R.S. ~~§ 36-881 et seq.~~ Title 36, Chapter 7.1, Article 1 or these rules, the Department shall conduct an investigation to ~~verify~~ determine compliance. ~~The A~~ licensee shall permit the Department to interview ~~child care personnel~~ staff members, residents, and enrolled children ~~for the as~~ part of an investigation.

**R9-5-209.        Denial, Revocation, or Suspension of License**

- A.** The Department may deny, revoke, or suspend a license to operate a facility if an applicant or licensee:
  - 1. Provides false or misleading information to the Department;
  - 2. Has been denied a certificate or license to operate a child care home or a certificate or license to operate a child care facility in any state, unless the denial was based on the applicant's failure to complete the certification or licensing process in accordance with a required time-frame;
  - 3. Has had a certificate or license to operate a child care home or a child care facility revoked or suspended in any state;
  - 4. ~~Has had registration to operate or work in a child care facility in the state of Arizona revoked or denied~~ Has been denied a fingerprint clearance card or has had a fingerprint clearance card revoked under A.R.S. Title 41, Chapter 12, Article 3.1;
  - 5. Fails to substantially comply with any provision ~~contained~~ in A.R.S. ~~§ 36-881 et seq.~~ Title 36, Chapter 7.1, Article 1 or these rules; or
  - 6. Substantially complies with A.R.S. Title 36, Chapter 7.1, Article 1 and these rules, but refuses to carry out a plan acceptable to the Department to eliminate any deficiencies.
- B.** In determining whether to deny, suspend, or revoke a license, the Department shall consider the threat to the health and safety of children in a facility based on such factors as:
  - 1. Repeated violations of statutes or rules,
  - 2. ~~Pattern~~ A pattern of non-compliance,
  - 3. ~~Type~~ The type of violation,
  - 4. ~~Severity~~ The severity of each violation, and
  - 5. ~~Number~~ The number of violations.

**ARTICLE 5. FACILITY PROGRAM AND EQUIPMENT**

**R9-5-509. General Food Service and Food Handling Standards**

- A.** A licensee that prepares or serves food to enrolled children on the facility premises shall comply with ~~2 A.A.C. R9-8-111 through R9-8-135, 8, Article 1 and the local ordinances;~~ and requirements of the local health department where the facility is located. If a licensee contracts with a food service establishment defined in ~~A.A.C. R9-8-112(13);~~ to prepare and deliver food to the facility, the licensee shall obtain and provide the Department with a copy of the food service establishment's permit, issued as prescribed by ~~A.A.C. R9-8-119 under 9 A.A.C. 8, Article 1,~~ at the following times:
1. Before the Department issues a license to the facility,
  2. Upon contracting with the food service establishment, and
  3. Every 12 months from after the date the food service contract is entered into while the contract is in effect.
- B.** ~~A licensee that stores, displays, transports, prepares, or serves food shall:~~
- ~~1. Protect food from contamination;~~
  - ~~2. Prohibit storage of food in a bathroom;~~
  - ~~3. Store perishable foods requiring cold storage in a refrigeration unit at temperatures that do not exceed 45° F or freezer at temperatures that do not exceed 0° F. Each refrigeration unit or freezer shall be fitted with a thermometer to measure the inside air temperature;~~
  - ~~4. Maintain perishable foods requiring hot storage at a temperature of at least 140° F, except during food preparation; and~~
  - ~~5. Provide a metal stem-type thermometer to measure the temperatures of foods.~~
- C.** A licensee shall ensure that a utensil, container, surface, or appliance used for eating, drinking, or food preparation is clean. All single-service articles as defined in ~~A.A.C. R9-8-112(30)~~ shall be disposed of after each use.
- D.** ~~A licensee shall ensure that staff members wash their hands with antibacterial soap and running water before preparing or serving food or washing utensils.~~
- E.** ~~When a licensee serves milk, vegetable juice, or fruit juice, the licensee shall ensure that the staff member:~~
- ~~1. Serves fresh milk from a commercially filled container and does not return an unused portion to a commercial container. This rule supersedes A.A.C. R9-8-132(E)(2);~~
  - ~~2. Does not substitute fresh milk with dry milk that has been reconstituted;~~
  - ~~3. Does not replace fresh milk with any other food in the meal pattern requirement; and~~
  - ~~4. Serves 100% full-strength fruit or vegetable juices.~~
- F.B.** ~~A licensee shall require ensure that each child:~~
- ~~1. Washes hands with antibacterial Enrolled children, except infants and special needs children who cannot wash their own hands, wash their hands with soap and running water before handling or eating food;~~
    - ~~a. A staff member may use a washcloth to wash the hands of an infant or a child with special needs if indicated in the child's individualized plan; and~~
    - ~~b. To reduce the transfer of bacteria, a washcloth shall be used only once for an infant or a child with special needs;~~
  - ~~2. A staff member:~~
    - ~~a. Washes with a washcloth the hands of an infant or a special needs child who cannot wash the child's own hands before the infant or special needs child handles or eats food, and~~
    - ~~b. Uses each washcloth only once before it is laundered;~~
  - ~~2-3. Is not served or An enrolled child is not permitted to eat food directly off of the floor, carpet, or ground or with utensils placed directly on the floor, carpet, or ground;~~
  - ~~3-4. Is encouraged but not forced by a staff member to eat foods served at a facility A staff member encourages, but never forces, enrolled children to eat food;~~
  - ~~4-5. Is assisted in eating when necessary A staff member assists each enrolled child who needs assistance with eating; and~~
  - ~~5-6. Is taught A staff member teaches self-feeding skills and habits of good nutrition to each child as necessary; :~~
  - ~~7. Fresh milk is served directly from the original, commercially filled contained, and unused portions of individual servings are not returned to the original container or stored for future consumption;~~
  - ~~8. Reconstituted dry milk is not served to meet the fluid milk requirement;~~
  - ~~9. Juice served to children for a meal or snack is full-strength 100% vegetable or 100% fruit juice from an original, commercially filled container or reconstituted from a concentrate;~~
  - ~~10. Each staff member is informed of a modified diet prescribed for an enrolled child by the child's parent or health care provider, and the modified diet is posted in the kitchen and in the child's activity area;~~
  - ~~11. The food served to an enrolled child is consistent with a modified diet prescribed for the child by the child's parent or health care provider;~~
  - ~~12. An enrolled child is not permitted in the kitchen during food preparation or food service except as part of an activity;~~
  - ~~13. Enrolled children do not use the kitchen or a food storage area as a passageway; and~~
  - ~~14. A director or staff member:~~
    - ~~a. Prepares a weekly menu at least one week in advance.~~

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- b. Includes on the menu the foods to be served on each day.
  - c. Dates each menu.
  - d. Posts each menu at least one day before the first meal on the menu will be served, and
  - e. Writes food substitutions on a posted menu no later than the morning of the day of meal service.
- G.** ~~Before the facility's 1st food service of the calendar week, a licensee shall ensure a dated menu specifying foods to be served on each day the facility is operating during the calendar week is posted in the facility.~~
- 1. ~~If a licensee serves a substitution for a food specified on the posted menu, the substitution shall be noted on the posted menu before the facility's 1st food service of the day.~~
  - 2. ~~A licensee shall maintain a menu on facility premises for 3 months from the date of the menu.~~
- H.** ~~When a parent provides specific dietary instructions for a child, a licensee shall post the instructions in the kitchen and the child's activity area and serve the child foods as instructed.~~
- I.** ~~A licensee shall not permit children in a kitchen during food preparation and food service except as part of an activity.~~
- J.** ~~A licensee shall not allow a food preparation or food storage area to be used as a passageway by children.~~

**ARTICLE 7. CHILD CARE GROUP HOME**  
**CERTIFICATION ~~OF DAY CARE GROUP HOMES~~**

**R9-5-701. Initial certification Application for a Certificate**

- A.** ~~An individual, partnership, or corporation shall not operate a day care group home unless certified by the Department.~~
- B.** ~~A completed, signed and notarized application for certification shall be submitted on forms provided by the Department, along with a non-refundable fee, pursuant to A.R.S. § 36-897.01(C) and (D), and all required attachments. An application submitted on behalf of an individual shall be signed by the individual; an application submitted on behalf of a partnership shall be signed by all partners; an application submitted on behalf of a corporation shall be signed by two officers of the Board of Directors of that corporation. The application shall contain:~~
  - 1. ~~For each signatory on the application for certification and for all child care personnel, a completed, notarized, work registration card, a completed fingerprint card, and a non-refundable fee covering the cost of the fingerprint check;~~
  - 2. ~~For corporations, current Certification of Corporation status, a list of the corporate Board of Directors with designated officers, and current bylaws;~~
  - 3. ~~A floor plan of the proposed facility containing accurate dimensions;~~
  - 4. ~~A site plan, with accurate measurements, of the facility's surrounding grounds and outdoor activity area;~~
  - 5. ~~Name, address and telephone number of available fire, paramedic, emergency room, poison control and police services and the proximity of such services to the facility;~~
  - 6. ~~Address of any location serving alcoholic beverages within 500 feet of the facility;~~
  - 7. ~~The addresses of agricultural land within one-fourth mile of the facility;~~
  - 8. ~~A notarized statement that the certificate holder has sufficient financial resources to maintain and operate the facility in full compliance with the statutes and rules governing day care group homes;~~
  - 9. ~~Written references, as specified in R9-5-801(B)(13), from persons who are 21 years of age or older and who have personal knowledge of the provider and who will attest to the provider's good character and ability to care for children;~~
  - 10. ~~Verification of fingerprint registration with the Department, as specified in A.R.S. § 36-897.03, of the applicant, all personnel, and household members who are 18 years of age or older;~~
  - 11. ~~Documentation provided by the Department that the provider has attended the Department's orientation program for day care group home;~~
  - 12. ~~Copy of report of violation-free fire inspection conducted by the local fire authority or the State Fire Marshal's office. This inspection shall be conducted within 90 days prior to application for certification.~~
  - 13. ~~Copy of report of sanitation inspection on Department approved forms conducted within 90 days prior to application certification; and~~
  - 14. ~~Copy of report of violation-free gas inspection conducted by a licensed plumber or person licensed by the state to conduct inspection and repairs of gas lines and gas-fired heating and cooling devices conducted within 90 days prior to the application for certification.~~
- C.** ~~If notified by the Department that the application is not complete, the applicant shall supply the requested information within 15 calendar after receiving such notice. If the applicant fails to provide the requested information within the stated time, the application shall be denied.~~
- D.** ~~After an application for initial certification is determined to be complete, the Department shall conduct an inspection of the facility and its grounds, to determine compliance with statutes and rules governing day care group homes.~~
- E.** ~~The applicant shall sign the inspection report acknowledging the receipt of a copy of the inspection report.~~

An applicant for a certificate shall:

  - 1. Be at least 21 years of age; and
  - 2. Submit to the Department an application packet including:
    - a. A notarized application form signed by the applicant stating:



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- i. The applicant's name;
- ii. The child care group home's name, if applicable;
- iii. The child care group home's street address, mailing address, and telephone number;
- iv. The applicant's type of business organization;
- v. Whether the applicant agrees to allow the Department to submit supplemental requests for information; and
- vi. That the applicant has read and will comply with these rules; has the financial resources to operate the child care group home in compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules; and declares that the information provided in the application is true and complete;
- b. If the applicant is a business organization, an Attachment to Application including the following organizational information about the business organization:
  - i. The address of the business organization;
  - ii. The name, title, and address of the business organization's statutory agent or of the individual designated by the business organization to accept service of process and subpoenas;
  - iii. The name, title, and address of each officer and board member or trustee; and
  - iv. A copy of the business organization's articles of incorporation, partnership or joint venture documents, or limited liability documents, if applicable;
- c. A Child Care Information Sheet, including:
  - i. The applicant's name and telephone number;
  - ii. The child care group home's name, street address, mailing address, and telephone number;
  - iii. A list of the rooms in the child care group home indicating which rooms will be used for child care;
  - iv. A list of the child care service classifications to be provided in the child care group home; and
  - v. The applicant's signature and the date signed;
- d. A copy of the applicant's valid class one or class two fingerprint clearance card issued according to A.R.S. § 41-1758.03;
- e. A Criminal History Affidavit Class II completed by the applicant and including the information required by A.R.S. § 36-897.03;
- f. A certificate issued by the Department showing that the applicant has completed at least four hours of Department-provided training that included the Department's role in certifying and regulating child care group homes under A.R.S. Title 36, Chapter 7.1, Article 4 and these rules;
- g. The following physical plant documents:
  - i. A floor plan of the child care group home showing the dimensions of the outside walls of the child care group home; the dimensions of each room to be used for child care; each exit from the child care group home; each sink and toilet to be used by enrolled children; and each smoke or heat detector, fire extinguisher, and telephone in the child care group home;
  - ii. A site plan of the child care group home's outdoor activity area showing the dimensions of the outdoor activity area, the height of the fence around the outdoor activity area, each exit from the outdoor activity area, the location of the house, the location of the shaded area required by R9-5-604(F), the location of a swimming pool, the height of the fence around the swimming pool, and any other building or structure in the outdoor activity area;
  - iii. A copy of a violation-free fire inspection conducted within 90 days before the date of application by the local fire department or the Office of the State Fire Marshal; and
  - iv. If the child care group home has gas-powered appliances or heating and cooling devices, a copy of a violation-free gas inspection conducted within 90 days before the date of application by a state-licensed plumber or an individual licensed by the state to conduct inspection and repairs of gas lines and gas-fired heating and cooling devices;
- h. An Applicant, Staff, and Resident Report Form, including the applicant's name and address; a statement that the information on the form is accurate; the dated signature of the applicant; and the following information about the applicant, each staff member, and each resident:
  - i. Name;
  - ii. Social security number;
  - iii. Birth date;
  - iv. Hire date, if applicable;
  - v. Job title, if a staff member, or relationship to certificate holder or provider, if a resident;
  - vi. Date of high school diploma or high school equivalency diploma, if applicable; and
  - vii. Information demonstrating each individual's compliance with A.R.S. § 36-897.03;
- i. A Provider Qualifications Form completed by the individual that the applicant intends to have serve as provider, including:
  - i. The name of the individual;
  - ii. The child care group home's name, if applicable;

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- iii. The child care group home's street address and telephone number;
- iv. A statement that the individual is at least 21 years of age, will accept the primary responsibility for the daily administration and operation of the child care group home, and possesses the minimum qualifications required by R9-5-801;
- v. A copy of the individual's high school diploma or high school equivalency diploma;
- vi. A description of any additional education completed by the individual;
- vii. A statement that the individual has on file at the child care group home the names, addresses, and telephone numbers of two professional references and two personal references for the individual;
- viii. A statement that the information in the Application for Provider Form is true and complete; and
- ix. The dated signature of the individual;
- j. At least one written professional reference and one written personal reference for the individual that the applicant intends to have serve as provider;
- k. Copies of certificates of general liability insurance and motor vehicle insurance that comply with R9-5-808; and
- l. The fee required by A.R.S. § 36-897.01.

**R9-5-702. ~~Certificate to operate a day care group home~~ Time-frames**

- ~~A. Upon determination by the Department that the application for certification is complete and the facility is in full compliance with the requirements of Article 7 through 10 of this Chapter, the Department shall issue a certificate to the provider to operate a day care group home. The certificate shall be valid for three years from the date of issuance and is nontransferable.~~
- ~~B. The certificate is valid only for the certificate holder and location identified on the certificate.~~
- ~~C. The provider shall post the certificate in the day care group home in a location where it can be seen by parents or guardians.~~
- ~~D. Each certificate shall be the property of the state of Arizona and the certificate shall be returned to the Department immediately upon suspension, revocation, expiration of the certificate, or voluntary closure, except for seasonal vacations.~~
- A. The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is set forth in Table 2. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is set forth in Table 2 and begins on the date that the Department receives an application.
  - 1. The Department shall send a notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the items needed to complete the application.
    - b. The administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice of deficiencies is issued until the date that the Department receives all of the missing items from the applicant.
    - c. If an applicant for an initial certificate or an approval of a change affecting a certificate fails to submit to the Department all of the items listed in the notice of deficiencies within 180 days after the date that the Department sent the notice of deficiencies, the Department shall consider the application withdrawn.
  - 2. If the Department issues a certificate or other approval to the applicant during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 2 and begins on the date of the notice of administrative completeness.
  - 1. As part of the substantive review for an initial certificate application or a certificate renewal application, the Department shall conduct an inspection that may require more than one visit to the child care group home.
  - 2. As part of the substantive review for a request for approval of a change affecting a certificate, the Department may conduct an inspection that may require more than one visit to the child care group home.
  - 3. The Department shall send a certificate or a written notice of approval or denial of a certificate or other request for approval to an applicant within the substantive review time-frame.
  - 4. During the substantive review time-frame, the Department may make one comprehensive written request for additional information, unless the Department and the applicant have agreed in writing to allow the Department to submit supplemental requests for information.
    - a. If the Department determines that an applicant or a child care group home is not in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, the Department shall send a comprehensive written request for additional information that includes a written statement of deficiencies stating each statute and rule upon which noncompliance is based.

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- b. An applicant shall submit to the Department all of the information requested in the comprehensive written request for additional information and written documentation of the corrections required in the statement of deficiencies, if applicable:
    - i. Within 120 days after the date of the comprehensive written request for additional information, if applying for an initial certificate or for approval of a change affecting a certificate; or
    - ii. Within 10 days after the date of the comprehensive written request for additional information, if applying for a certificate renewal.
  - c. The substantive review time-frame and the overall time-frame are suspended from the date that the Department issues a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested, including documentation of corrections required in a statement of deficiencies, if applicable.
  - d. If an applicant fails to submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information, including documentation of corrections required in a statement of deficiencies, if applicable, within the time prescribed in subsection (C)(4)(b), the Department shall deny the application.
6. The Department shall issue a certificate or approval if the Department determines that the applicant and child care group home are in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, and the applicant submits a plan of correction that is acceptable to the Department for any deficiencies.
7. If the Department determines that a certificate or approval is to be denied, the Department shall send to the applicant a written notice of denial setting forth the reasons for denial and all other information required by A.R.S. § 41-1076.

**Table 2. Time-frames (in days)**

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Review Time-frame</u>	<u>Substantive Review Time-frame</u>
<u>Initial Certificate under R9-5-701</u>	<u>A.R.S. § 36-897.01</u>	<u>120</u>	<u>30</u>	<u>90</u>
<u>Certificate Renewal under R9-5-704</u>	<u>A.R.S. § 36-897.01</u>	<u>90</u>	<u>30</u>	<u>60</u>
<u>Approval of Change Affecting Certificate under R9-5-705</u>	<u>A.R.S. §§ 36-897.01, 36-897.02</u>	<u>75</u>	<u>30</u>	<u>45</u>

**R9-5-703. Denial of certification Fingerprinting Requirements**

- A.** Initial certification to operate a day care group home shall be denied if:
- 1. Applicant fails to timely submit a properly completed application including required inspections and documents;
  - 2. Applicant provides false, incomplete, or misleading information on the application or during the application process;
  - 3. The applicant fails to allow the Department to enter the day care group home or to inspect required records;
  - 4. The applicant fails to fully comply with statutes and rules governing day care group homes or fails to correct within 30 days deficiencies cited during the initial certification inspection;
  - 5. After the Department has determined that an individual's presence in the facility may be detrimental to children, and after the Department has so notified the applicant, that applicant refuses to exclude said individual from the facility during the hours of operation;
  - 6. Applicant refuses to exclude from the day care group home during hours of operation individuals who have been denied registration pursuant to A.R.S. § 36-897.03;
  - 7. Applicant has been denied a certificate to operate a day care group home or a license to operate a day care center for the care of children for cause, in this state or another state, or has had such a certificate or license to operate a day care group home or day care center revoked, suspended, or not renewed;
  - 8. The Department has determined that the applicant is not of good character conducive to the welfare of children. An applicant who is an individual, or who is the officer of a corporation which is the applicant, or is a partner in a partnership will be considered not to have the good character conducive to the welfare of children if:
    - a. The applicant is awaiting trial on, or has been convicted of, or has admitted committing any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:
      - i. Sexual abuse of a minor;

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- ii. Incest;
  - iii. First or second degree murder;
  - iv. Kidnapping;
  - v. Arson;
  - vi. Sexual assault;
  - vii. Sexual exploitation of a minor;
  - viii. Contributing to the delinquency of a minor;
  - ix. Commercial sexual exploitation of a minor;
  - x. Felony offenses involving distribution of marijuana or dangerous or narcotic drugs;
  - xi. Burglary;
  - xii. Robbery;
  - xiii. A dangerous crime against children as defined in A.R.S. § 36-897.03 or A.R.S. § 13-604.01;
  - xiv. Child abuse;
  - xv. Sexual conduct with a minor;
  - xvi. Molestation of a child;
  - b. ~~The applicant is the parent or guardian of a child adjudicated to be a dependent child as defined in A.R.S. § 8-201(11);~~
  - e. ~~The applicant, at the time of the renewal inspection, is not in full compliance with the statutes and rules governing day care group homes; or~~
  - d. ~~During the most recent certification period, the applicant repeated operated in violation of statutes and rules governing day care group homes.~~
- B.** ~~An application for renewal of a day care group home certificate shall be denied for the reasons specified in subsection (A) of this Section.~~
- A.** A certificate holder shall ensure that each staff member and each adult resident at a child care group home:
- 1. Possesses a valid class one or class two fingerprint clearance card issued under A.R.S. § 41-1758.03, or
  - 2. Submits to the certificate holder a fingerprint clearance card application showing that the application was submitted to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after becoming a staff member or adult resident.
- B.** If a staff member or adult resident possesses a class one or class two fingerprint clearance card that was issued before the staff member or adult resident became a staff member or adult resident at the child care group home, the certificate holder shall contact the Department of Public Safety to determine whether the class one or class two fingerprint clearance card is valid. The certificate holder shall make a record of this determination, including the name of the staff member or adult resident, the date of the contact with the Department of Public Safety, and whether the class one or class two fingerprint clearance card is valid.
- C.** A certificate holder shall not allow an individual to be a staff member or adult resident if the individual has been denied a class two fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1, and has not received an interim approval under A.R.S. § 41-619.55(H).
- D.** A certificate holder shall not allow an individual to be a staff member or adult resident if the individual receives an interim approval under A.R.S. § 41-619.55(H) but is then denied a good cause exception under A.R.S. § 41-619.55 and a class two fingerprint clearance card under A.R.S. Title 41, Chapter 12, Article 3.1.
- E.** A staff member who was fingerprinted before July 1, 2000, and who has not changed employment since being fingerprinted is not required to comply with subsection (A)(1) or (2) until August 16, 2002.
- F.** A certificate holder shall ensure that each staff member and each adult resident submits to the certificate holder the form required in A.R.S. § 36-897.03(B).
- G.** A certificate holder shall maintain documentation of each staff member's or adult resident's compliance with this Section in each staff member's or adult resident's file throughout an individual's time as a staff member or adult resident and for 12 months after an individual ceases to be a staff member or adult resident.
- R9-5-704.      Certificate Renewal of certification**
- A.** An application for renewal of a day care group home certificate shall be submitted on forms provided by the Department no more than 60 days, but not less than 30 days, before expiration of the current certificate. At least 45 days before the expiration of a current certificate, an applicant for renewal of a certificate shall submit to the Department an application packet including:
- 1. A notarized application form signed by the applicant that includes:
    - a. The applicant's name;
    - b. The child care group home's name, if applicable;
    - c. The child care group home's street address, mailing address, and telephone number;
    - d. The applicant's type of business organization; and

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- e. A statement that the applicant has read and will comply with these rules; has the financial resources to operate the child care group home in compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules; and declares that the information provided in the application is true and complete;
- 2. An Attachment to Application including any changes to the information previously submitted as prescribed in R9-5-701(2); and
- 3. The fee required by A.R.S. § 36-897.01.
- B. When a completed application for renewal of certification is submitted prior to the expiration of the certificate, the existing certification shall remain in effect until the issuance of a final Department decision regarding that application for renewal of certification. An applicant that submits the items required by subsection (A) later than 45 days before the expiration date of the current certificate shall submit to the Department the late filing fee required by A.R.S. § 36-897.01.
- C. If an applicant submits the items required by subsection (A) and the fee required by subsection (B), if applicable, before the expiration date of the current certificate, the current certificate does not expire until the date specified in A.R.S. § 41-1092.11(A).

**R9-5-705. Suspension or revocation of certification Changes Affecting a Certificate**

Certification may be suspended or revoked for any of the following:

- 1. Violation of any statute or rule governing day care group homes;
- 2. Failure to comply with child care personnel registration requirements;
- 3. Use of personnel for whom proper registration forms have not been submitted or who have been denied registration;
- 4. Omission of, or refusal to provide, information or records necessary for the Department to determine compliance with statutes and rules governing day care group homes;
- 5. Fraud or deceit in applying for certification or renewal of certification;
- 6. Failure to report abuse of a child pursuant to A.R.S. § 13-3620;
- 7. The presence in the day care group home, during hours of operation, of any personnel or household member:
  - a. Who are addicted to drugs or alcohol, or whose performance is affected by the use of drugs or alcohol;
  - b. Who have abused any child; or
  - c. Who use or have used unacceptable disciplinary methods as defined in R9-5-909(E).
- A. At least 30 days before the date of a change in a child care group home's name, a certificate holder shall send the Department written notice of the name change. Within 30 days after the date of receipt of the notice, the Department shall issue an amended certificate that incorporates the name change but retains the expiration date of the current certificate.
- B. At least 30 days before the date of an intended change in a child care group home's space utilization or certified capacity, a certificate holder shall submit a written request for approval of the change to the Department. The written request shall include:
  - 1. The certificate holder's name;
  - 2. The child care group home's name, if applicable;
  - 3. The child care group home's street address, mailing address, and telephone number;
  - 4. The name, telephone number, and facsimile number of a point of contact for the request;
  - 5. The child care group home's certificate number;
  - 6. The type of change:
    - a. Space utilization, or
    - b. Certified capacity;
  - 7. A narrative description of the intended change; and
  - 8. The following additional information, as applicable:
    - a. If requesting a change in certified capacity, the square footage of the outdoor activity area and the square footage of the child care group home's indoor activity areas; and
    - b. If requesting a change in space utilization that affects individual rooms, the name and square footage of each affected room.
- C. The Department shall review a request submitted under subsection (B) in accordance with R9-5-702. If the child care group home will be in substantial compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules with the intended change, the Department shall send the certificate holder an amended certificate that incorporates the change but retains the expiration date of the current certificate.
- D. A certificate holder shall not implement any change described under subsection (B) until the Department issues an amended certificate.
- E. At least 30 days before the date of a change in service classification, a certificate holder shall send the Department written notice of the change.
- F. At least 30 days before the date of a change in the ownership of a child care group home, a certificate holder shall send the Department written notice of the change. A new owner shall obtain a new certificate as prescribed in R9-5-701 before beginning operation of a child care group home.

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- G. A certificate holder changing a child care group home's location shall apply for a new certificate as prescribed in R9-5-701.
- H. Within 30 days after the date of a change in any corporate or company officer or statutory agent, a certificate holder that is a corporation or a limited liability company shall send the Department written notice of the change.
- I. Within 30 days after the date of a change in the membership of a partnership or joint venture or in the individual designated in writing to accept service of process and subpoenas, a certificate holder that is a partnership or joint venture shall send the Department written notice of the change.
- J. Within 30 days after the date of a change in the officers of an association or cooperative or in the statutory agent or other individual designated in writing to accept service of process and subpoenas, a certificate holder that is an association or cooperative shall send the Department written notice of the change.

**R9-5-706. Notice of changes Change in Provider**

- A.** The certificate holder shall notify the Department in writing, at least 30 days prior to the effective date, of any of the following changes or physical alterations:
  - 1. Remodeling of the day care group home or its grounds. A copy of the remodeling building permit, if required by the local jurisdiction, shall be attached to the notification of remodeling.
  - 2. Addition of any body of water including wells, cattle tank, swimming pool, spa, hydrotherapy pool, or decorative pond;
  - 3. Modification of records, permits or statements, submitted to the Department as a part of the application for certification or renewal of certification; or
  - 4. Transfer of ownership or termination of tenancy of the residence in which the child care services are provided.
- B.** The certificate holder shall notify the Department, in writing, within 15 days of:
  - 1. Addition or deletion of household members;
  - 2. Voluntary closure of child care services. The provider shall submit the current certificate issued to operate the day care group home along with such notification;
  - 3. any allegation that personnel or a household member has committed any of the crimes specified in A.R.S. § 36-897.03, or has engaged in or has observed any conduct not conducive to the welfare of the child; or
  - 4. The conviction or arrest of any personnel or household member for any crime specified in A.R.S. § 36-897.03.

At least 30 days before changing a child care group home's provider, a certificate holder shall send the Department written notice of the change. The written notice shall include a Provider Qualifications Form completed as required by R9-5-701(2)(j).

**R9-5-707. ~~Complaints; investigations~~ Inspections; Investigations**

- A.** ~~Any person may file a written or oral complaint with the Department regarding the operation of a day care group home. The Department shall visit each day care group home as often as necessary to assure continued full compliance with law and the rules. The Department shall inspect each child care group home before issuing an initial certificate or a renewal certificate and as often as necessary to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules. A certificate holder shall allow access to all areas of the child care group home affecting the health, safety, or welfare of an enrolled child or to which an enrolled child has access during hours of operation.~~
- B.** ~~The provider shall allow representatives of the Department to inspect all areas of the day care group home to which the children have access during hours of operation. Such inspection shall include the facility and grounds, required records and reports, interviews with enrolled children, child care personnel and other household members and shall provide access to areas of the facility not used by children but which may affect their welfare or safety. If the Department receives written or verbal information alleging a violation of A.R.S. Title 36, Chapter 7.1, Article 4 or these rules, the Department shall conduct an investigation to determine compliance. A certificate holder shall permit the Department to interview staff members, residents, and enrolled children as part of an investigation.~~

**R9-5-708. Denial, Revocation, or Suspension of Certificate**

- A.** The Department may deny, revoke, or suspend a certificate to operate a child care group home if an applicant or certificate holder:
  - 1. Provides false or misleading information to the Department;
  - 2. Has been denied a certificate or license to operate a child care group home or a certificate or license to operate a child care facility in any state, unless the denial was based on the applicant's failure to complete the certification or licensing process in accordance with a required time-frame;
  - 3. Has had a certificate or license to operate a child care group home or a child care facility revoked or suspended in any state;
  - 4. Has been denied a fingerprint clearance card or has had a fingerprint clearance card revoked under A.R.S. Title 41, Chapter 12, Article 3.1;
  - 5. Fails to substantially comply with any provision in A.R.S. Title 36, Chapter 7.1, Article 4 or these rules; or
  - 6. Substantially complies with A.R.S. Title 36, Chapter 7.1, Article 4 and these rules, but refuses to carry out a plan acceptable to the Department to eliminate any deficiencies.

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**B. In determining whether to deny, suspend, or revoke a certificate, the Department shall consider the threat to the health and safety of children in a child care group home based on such factors as:**

1. Repeated violations of statutes or rules.
2. A pattern of non-compliance.
3. The type of violation.
4. The severity of the violation, and
5. The number of violations.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**PREAMBLE**

**1. Sections Affected**

R12-4-701  
R12-4-702  
R12-4-703  
R12-4-705  
R12-4-706  
R12-4-708  
R12-4-709  
R12-4-711  
R12-4-712

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend

**2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statutes: A.R.S. §§ 17-296, 17-297, and 17-298

**3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 1683, April 20, 2001

Notice of Public Meeting on Open Rulemaking Docket: 7 A.A.R. 2333, June 8, 2001

Notice of Public Meeting on Open Rulemaking Docket: 7 A.A.R. 2782, June 29, 2001

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mark E. Naugle, Manager, Rules and Risk Management Section

Address: Arizona Game and Fish Department DORR  
2221 West Greenway Road  
Phoenix, AZ 85023-4399

Telephone: (602) 789-3289

Fax: (602) 789-3677

**5. An explanation of the rules, including the agency's reasons for initiating the rules:**

The proposed rulemaking is primarily a result of the 2000 five-year rules review of Article 7, which identified potential amendments to the Article 7 rules to clarify the application process and general provisions of the Arizona Game and Fish Commission Heritage Fund Grant programs.

**R12-4-701. Heritage Grant Definitions**

In order to alleviate any possible confusion regarding the effective dates of the grants, the proposed rulemaking adds a definition of "grant effective date" to R12-4-701. This term will also be used in R12-4-711. Participant Agreements. The grant effective date will be the date that the Arizona Game and Fish Department Director signs the participant agreement, and this will be the start date for the project.

In a further effort to reduce confusion for those applying for a Heritage Grant, the proposed rulemaking amends the term “Budget Prioritization Process” to clarify that the document and the prioritization process is for grant applications. The proposed new term is “Grant Prioritization Process.”

In addition, the proposed rulemaking adds definitions for “Heritage Grant” and “Participant Contact” and amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

#### **R12-4-702. General Provisions**

The 2000 Five-Year rules review of Article 7 identified amendments to the rule to clarify the application process and general provisions of the Arizona Game and Fish Commission Heritage Fund Grant programs. The proposed rulemaking makes the following amendments to R12-4-702:

- In order to clarify application submission requirements, prevent applicant confusion, and eliminate unintentional applicant error, the proposed rulemaking amends subsection (A) to clarify that the exact time and date for the application deadline and the exact application submission location will be designated in the Arizona Game and Fish Department’s Grant Application Manual, available from the Department’s Funds Planning Section at the Phoenix office.
- The 2000 Five-Year rules review of Article 7 found that the language in subsection (B) regarding grant ineligibility was overly broad and restrictive. The proposed rulemaking revises the language to specify that grant applicants who fail to comply with the rules or conditions of a Heritage Grant Participant Agreement, issued under Title 12, Chapter 4, are not eligible for further grants only until their project is brought into compliance. With this proposed rule amendment, the Department is relaxing the ineligibility restriction it places on participants, since it was never the intent of the Department to render an applicant permanently ineligible under this subsection if they have a project over two years old that has not been completed and closed. The amended rule language will allow applicants to be eligible for further Heritage Grants once their projects are brought into compliance.
- The Department has found that the \$500 Environmental Education and Schoolyard grant minimums, allowed in subsection (H), are not cost effective for the agency to administer. Actual administrative costs routinely exceed \$500. The proposed rulemaking raises the minimum to \$1000, which is the minimum for all grants other than Environmental Education and Schoolyard.
- The proposed rulemaking also amends the rule to add subsection (K), which specifies that if required by the participant agreement, including the Special Conditions attachment, the grant recipient shall be in compliance with all applicable local, state, and federal law and must provide evidence, as defined by the Department in the Special Conditions attachment, to the Department prior to the release of the initial grant funds and prior to project implementation. This is an existing requirement currently stipulated in R12-4-709. The requirement is being deleted from R12-4-709, and the language is being clarified and moved to this Section since it is more appropriately identified as a general provision of the Heritage Grant requirements.
- Subsection (L) is also being added by the proposed rulemaking. This subsection specifies that if a participant contact has a Heritage Grant funded project in extension, the participant contact and the administrative subunit employing the participant contact shall not be eligible for further Heritage Grants until the project under extension is completed. This restriction applies only to an individual participant contact and administrative subunit, as defined in R12-4-701. It does not apply to the participant contact’s public agency as a whole, or to any other participant contact employed by the same public agency in another administrative subunit, so long as that participant contact’s Heritage Grant funded project is not in extension. The proposed amendment will not change the amount of available funds, or the amount of funds awarded. It will encourage participants to complete their projects on time, and it will benefit additional applicants who might not otherwise receive funding for their projects.
- The 2000 Five-Year Rules Review of Article 7 also identified the need for technical corrections and style changes. These changes are necessary to correct outdated material and to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

#### **R12-4-703. Review of Proposals**

The 2000 Five-Year Rules Review of R12-4-703 did not identify the need for any changes to the rule; however, to make the rule language consistent with the rest of the proposed Article 7 rule amendments, and in an effort to reduce confusion for those applying for a Heritage Grant, the proposed rulemaking amends the term “Budget Prioritization Process” to clarify that the document and prioritization process is for grant applications. The proposed new term is “Grant Prioritization Process.”



In addition, the proposed rulemaking amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

**R12-4-705. Public Access Grants**

The 2000 Five-Year Rules Review of R12-4-705 determined that the applicant eligibility requirements in subsection (B) were somewhat vague. The proposed rulemaking amends the rule to clarify project eligibility requirements and to remove language that is duplicative of state statute. In addition, the proposed rulemaking amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

**R12-4-706. Environmental Education Grants**

The proposed rulemaking revises subsection (B) to raise the Environmental Education Grant's minimum project proposal amount from \$500 to \$1000, which is the minimum for all grants other than Environmental Education and Schoolyard. The agency has found that allowing for proposals of only \$500 is not cost-effective for the agency to administer since the actual administrative costs routinely exceed \$500.

The proposed rulemaking also makes technical corrections and style changes identified in the 2000 Five-Year Rules Review of Article 7. These changes are necessary to correct outdated material and to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

**R12-4-708. IIPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat**

The 2000 Five-Year Rules Review of R12-4-708 determined that the rule title required revision. The grant title and the acronym for the grant are not consistent. The proposed rulemaking will change the title to "IIPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat." The proposed rulemaking also amends the rule to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style and to remove language that is duplicative of state statute.

**R12-4-709. Grant Applications**

In an effort to simplify the paperwork required to provide evidence of control and tenure at a project site that is being directly or indirectly managed by the applicant, the Department proposes to amend subsection (I)(2) of the rule to allow for other types of appropriate documentation to be used as proof of control and tenure. An example would be a letter from a public school principal or superintendent verifying that the project site is on public school grounds.

The proposed rulemaking will also amend the rule to delete subsection (K) and move it to R12-4-702 to be incorporated into a new subsection that specifies that if required by the participant agreement, including the special conditions attachment, the grant recipient shall be in compliance with local, state, and federal law and must provide evidence, as defined by the Department in the Special Conditions attachment, to the Department prior to the release of the initial grant funds and prior to project implementation.

In addition, the proposed rulemaking amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

**R12-4-711. Participant Agreements**

The proposed rulemaking clarifies that the Department shall transfer grant funds within one year of the date the Director signs the agreement rather than within one year of the date grant awards are announced. This change is being proposed because of confusion generated by the term "grant award" in subsection (2). This term is often misinterpreted as the date of the Commission meeting at which the Department announces the grant awards, rather than the date the Department ratifies the contractual agreement. Therefore, the Department wishes to clarify that the Department shall transfer grant funds within one year of the date the Director signs the agreement rather than within one year of the date that the grant awards are announced.

The proposed rulemaking also extends the project period from two years to three years and adds a provision to subsection (13) that stipulates that any equipment purchased with grant funds that has an acquisition cost of greater than \$500 shall be surrendered to the Department upon completion of the project, unless the Department has authorized the participant to sell the equipment or use the equipment for an approved public purpose for the useful life of the equipment under the Grant-in-Aid Participant Agreement. In the existing rule text, no monetary figure is placed on the equipment to be surrendered to the Department; instead, the rule requires that the participant return any equipment not used for a public purpose for the useful life of the equipment to the Department.

On average, it takes 2.6 years to complete a Heritage Grant project, due primarily to the external permitting and approval process. This limits the actual fieldwork time to less than two biological seasons, which can impact the quality of the biological data. Ideally, two biological seasons are needed for sound and valid research. Under the current time-limit constraint of two years, participants typically need to request an extension to complete their work. This is costly to both the participant and the Department. The proposed rule change, which increases the time limit from two to three years, will eliminate the need for most extensions and should improve the potential for project success. The new schedule will also benefit those working with grants in the school systems, as it will lessen the constraints that the school year time period places on project completion schedules.

Stipulating that equipment purchased with grant funds that has an acquisition cost of greater than \$500 be surrendered to the Department upon completion of the project (unless the Department has authorized the participant to sell the equipment or use the equipment for an approved public purpose for the useful life of the equipment) will act as a control mechanism on the Heritage Grant Fund to assure that equipment of at least \$500 is used for a Heritage funded public good. Returned equipment undergoes Department inventory processing, which requires the time and effort of the Heritage Grant Coordinator and Special Services personnel. Equipment identification tags are assigned to the items, and the items are then routed to Heritage-funded projects or, if determined to be non-useable, processed for disposal. The retrieval or return processing, inventory, and distribution takes an estimated minimum of 20 hours. \$500 was selected as the threshold amount because that is the administrative break-even point for the retrieval of equipment.

The proposed rulemaking also involves technical corrections and style changes identified in the 2000 Five-Year Rules Review of Article 7. These changes are necessary to correct outdated material and to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

#### **R12-4-712. Reporting and Record Requirements**

In addition to amending the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style, the proposed rulemaking reduces the regulatory burden on the participant by reducing the number of annually required project-status reports from four to two. This amendment is being proposed to eliminate unnecessary reporting requirements for Heritage Grant participants. The Department believes that requiring participants to submit quarterly status reports is not necessary for the control and management of Heritage Grant funded projects. The Department believes that reducing the reporting requirements will save participants and the Department both time and money, without impacting project quality or results.

**6. A reference to any study that the agency relied on in its evaluation of or justification for the proposed rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**8. The preliminary summary of the economic, small business, and consumer impact:**

**R12-4-701. Heritage Grant Definitions**

**R12-4-703. Review of Proposals**

**R12-4-705. Public Access Grants**

**R12-4-708. IIAPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat**

**R12-4-709. Grant Applications**

Except for those costs associated with the rulemaking itself, the proposed rulemaking will result in no added cost to the Arizona Game and Fish Department, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The proposed rulemaking will benefit the Department and those governmental entities applying for Heritage Grants by correcting outdated material and improving the accuracy, clarity, and understandability of the rules. Additionally, proposed amendments to R12-4-709 will help to reduce costs to applicants by simplifying the paperwork required to provide evidence of control and tenure at a project site that is being directly or indirectly managed by the applicant.

The grants that are approved from the Heritage Fund result in an average expenditure of \$980,000 annually. Many of these funds are expended to purchase goods and services from businesses in Arizona. Some of the types of businesses who receive the benefit of these funds are construction companies, engineering firms, companies that supply high-tech equipment and computers, testing laboratories, scientific supply houses, lumber companies, archaeologists, sign companies, paper products companies, helicopter/flight service companies, fence companies, and landscaping companies.

There will not be any additional costs or reduction in revenues to businesses resulting from these rule amendments, and there is no anticipated effect on the revenues or payroll expenditures of employers who are subject to or affected by the proposed rulemaking.

The expenditure of funds from the grants that are approved from the Heritage Fund will continue to have a very positive financial affect in terms of providing additional revenue opportunities for many businesses in the state.

The Department has determined that the benefits of the proposed rulemaking for R12-4-701, 703, 705, 708, and 709 outweigh any costs.

#### **R12-4-702. General Provisions**

The proposed rulemaking will affect those agencies and governmental entities eligible to apply for and receive Heritage Grants. The agencies that have submitted applications to the Department in the past include representative organizations from all of the types of government that are eligible to receive funding. Those which have received funding include agencies such as the US Department of Agriculture, the US Fish and Wildlife Service, Arizona State Parks Board, NAU, ASU, Verde Natural Resource Conservation District, Yavapai County Parks and Recreation Department, White Mountain Apache Tribe, Miami School District, Cochise County, and the Prescott Historical Society, to name just a few. The grants from the Heritage Program have been distributed to nearly all of the urban and rural areas in the state, and to all levels of government. The proposed rulemaking is expected to benefit all public agencies and governmental entities applying for an Arizona Game and Fish Commission Heritage Fund Grant.

Except for those costs associated with the rulemaking itself, the proposed rule amendment to subsection (A), which clarifies that the exact time and date for application deadline and the exact application submission location will be designated in the Arizona Game and Fish Department's Grant Application Manual, will result in no added cost to the Arizona Game and Fish Department, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The Department's Grant Application Manual, which the Department currently publishes and provides to applicants, already contains this information. The information is being added to the rule so that Heritage Grant applicants will be better informed about the correct process for submitting applications. It is the Department's belief that this amendment will reduce and perhaps even eliminate unintentional applicant submission errors. The proposed rulemaking will benefit the Department and those governmental entities applying for Heritage Grants by clarifying the application submission process and reducing or eliminating errors.

The proposal to revise subsection (B) to specify that grant applicants who fail to comply with the rules or conditions of a Heritage Grant Participant Agreement, issued under Title 12, Chapter 4, are not eligible for further grants only until their project is brought into compliance, is intended to clarify the existing rule language, which the Department has found to be overly broad and restrictive. With this proposed rule amendment, the Department is relaxing the ineligibility restriction it places on participants, since it was never the intent of the Department to render an applicant permanently ineligible under this subsection if they have a project over two years old that has not been completed and closed. The amended rule language will allow applicants to be eligible for further Heritage Grants once their projects are brought into compliance. There should be no additional costs to the Department or to other agencies as a result of this proposed rulemaking. Applicants who are in default will have a greater incentive to bring their projects into compliance, which will ultimately benefit the Department and the citizens of Arizona.

The proposal to raise the grant minimums allowed in subsection (H) from \$500 to \$1000 is designed to make the rule language of R12-4-702 consistent with R12-4-706. Environmental Education Grants, where this change is also being made. All Heritage Grant applications are evaluated through the Department's Grant Prioritization Process, and the processing is the same for all applications approved for funding, regardless of the amount or type of project. Once funded, projects are managed essentially the same even though the funding may vary greatly among projects. The minimum staff time needed to evaluate the application and manage the funded project is approximately 56 hours. Assuming staff time at \$20 per hour, the cost/benefit ratio of projects funded at less than \$1,000 is less than the funding amount. Changing the minimum amount to \$1,000 will benefit the Department because the administration and management costs will be more in line with the minimum amount funded.

The only other agencies directly affected by the proposed rulemaking in subsection (H) are the school districts of Arizona applying for Environmental Education and Schoolyard grants. Since 1992, there have been eight school districts

that have been awarded grants for less than \$1,000. None of these was more recent than 1996. Therefore, the direct impact on applicants is expected to be minimal to nonexistent since all funded projects in the last five years have been for amounts greater than \$1,000, which indicates that costs for these types of projects typically exceed \$1,000. Larger projects generally do require more effort in application preparation and project management during the project implementation phase; however, increasing the minimum from \$500 to \$1,000 is not believed to be a significant amount from this standpoint and is not expected to increase costs to applicants.

The Department anticipates that the proposed addition of subsection (K) to this Section will result in no added costs to the Arizona Game and Fish Department, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking, with the exception of those costs directly associated with the rulemaking itself. The proposed rulemaking specifies in subsection (K) that if required by the participant agreement, including the Special Conditions attachment, the grant recipient shall be in compliance with local, state, and federal law and must provide evidence, as defined by the Department in the Special Conditions attachment, to the Department prior to the release of the initial grant funds and prior to project implementation. This is an existing requirement currently stipulated in R12-4-709. The requirement is being deleted from R12-4-709, and the language is being clarified and moved to this Section since it is more appropriately identified as a general provision of the Heritage Grant requirements. The addition of subsection (K) will place no new requirements on applicants and will benefit applicants and the Department by clarifying the requirements in a more logical place in the Heritage Grants rules.

The Department likewise anticipates that the proposed addition of subsection (L) to this Section will result in no added costs to the Arizona Game and Fish Department, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking, with the exception of those costs directly associated with the rulemaking itself. Subsection (L) specifies that if a participant contact has a Heritage Grant funded project in extension, the participant contact and the administrative subunit employing the participant contact shall not be eligible for further Heritage Grants until the project under extension is completed. This restriction applies only to an individual participant contact and administrative subunit, as defined in R12-4-701. It does not apply to the participant contact's public agency as a whole, or to any other participant contact employed by the same public agency in another administrative subunit, so long as the other participant contact's Heritage Grant funded project is not in extension. The primary effect of this restriction will be that any available funding that might otherwise have gone to applicants whose projects are in extension will now be available to other applicants, including new applicants. The proposed amendment will not change the amount of available funds, or the amount of funds awarded. It will encourage participants to complete their projects on time, and it will benefit additional applicants who might not otherwise receive funding for their projects. In the last funding cycle, only two participants would have been affected by this rule change.

There will be no additional costs and no reductions in revenues to businesses resulting from these rule amendments, and there is no anticipated effect on the revenues or payroll expenditures of employers who are subject to or affected by the proposed rulemaking.

The expenditure of funds from the grants that are approved from the Heritage Fund will continue to have a very positive financial affect in terms of providing additional revenue opportunities for many businesses in the state. This will not change as a consequence of the proposed rulemaking.

The Department anticipates that the benefits from the proposed rulemaking for R12-4-702 will outweigh the costs to the Department and any other agencies or political subdivisions directly affected by the implementation and enforcement of the proposed rulemaking.

#### **R12-4-706. Environmental Education Grants**

The proposed rulemaking revises subsection (B) to raise the Environmental Education Grant's minimum project proposal amount from \$500 to \$1000, which is the minimum for all grants other than Environmental Education and Schoolyard. The agency has found that allowing for proposals of only \$500 is not cost-effective for the agency to administer since actual administrative costs routinely exceed \$500.

An analysis of funded projects indicates that the number of projects funded in the range of \$500 to \$1,000 has been few. Beginning in 1992 and extending through 2000, five of 61 Environmental Education projects were funded for less than \$1,000, for a total of \$3,068. Likewise, three of 88 Schoolyard projects were funded for less than \$1,000, for a total of \$1,883. All of the projects under \$1,000 were funded prior to fiscal year 1996. The total awarded funding during the period was \$301,350 for Environmental Education and \$495,492 for Schoolyard projects. The direct impact on applicants is expected to be minimal to nonexistent since all funded projects in the last five years have been for amounts greater than \$1,000, which indicates that costs for these types of projects typically exceed \$1,000. Larger projects generally do require more effort in application preparation and project management during the project imple-

mentation phase; however, increasing the minimal standard from \$500 to \$1,000 is not believed to be a significant amount from this standpoint and is not expected to increase costs to applicants.

The total grants that are approved from the Heritage Fund result in an average expenditure of \$980,000 annually. Many of these funds are expended to purchase goods and services from businesses in Arizona. Some of the types of businesses who receive the benefit of these funds are construction companies, engineering firms, companies that supply high-tech equipment and computers, testing laboratories, scientific supply houses, lumber companies, archaeologists, sign companies, paper products companies, helicopter/flight service companies, fence companies, and landscaping companies.

There will not be any additional costs or reduction in revenues to businesses resulting from these rule amendments, and there is no anticipated effect on the revenues or payroll expenditures of employers who are subject to or affected by the proposed rulemaking.

The expenditure of funds from the grants that are approved from the Heritage Fund will continue to have a very positive financial affect in terms of providing additional revenue opportunities for many businesses in the state. This will not change as a consequence of the proposed rulemaking.

The Department anticipates that the benefits of the proposed rulemaking for R12-4-706 will outweigh the costs.

#### **R12-4-711. Participant Agreements**

The proposed rulemaking clarifies that the Department shall transfer grant funds within one year of the date the Director signs the agreement rather than within one year of the date grant awards are announced; extends the project period from two years to three years; and adds a provision to Section (13) that stipulates that any equipment purchased with grant funds that has an acquisition cost of greater than \$500 shall be surrendered to the Department upon completion of the project, unless the Department has authorized the participant to sell the equipment or use the equipment for an approved public purpose for the useful life of the equipment under the Grant-in-Aid Participant Agreement. In the existing rule text, no monetary figure is placed on the equipment to be surrendered to the Department; instead, the rule required that the participant return any equipment not used for a public purpose for the useful life of the equipment to the Department. Returned equipment undergoes Department inventory processing, which requires the time and effort of the Heritage Grant Coordinator and Special Services personnel. Equipment identification tags are assigned to the items, and the items are then routed to Heritage-funded projects or, if determined to be non-useable, processed for disposal. The retrieval or return processing, inventory, and distribution takes an estimated minimum of 20 hours. \$500 was selected as the threshold amount because that is the administrative break-even point for the retrieval of equipment.

Establishing the deadline for payment of funds within one year of the grant effective date clarifies the deadline for the participant and removes confusion from the process. This change will also allow the participant more time (in some cases as much as three months) to request funds, which will help with scheduling and logistical matters associated with project implementation.

The time needed to complete Heritage projects averages approximately 2.6 years. Currently, half of the open projects have extensions. The proposed rulemaking adds an additional year for the project period, which is expected to offset the need for at least one extension. This should reduce the financial impact for the participants and the Department. For example, the administrative tasks necessary for amending the Agreement to authorize an extension include the Department notifying the participant of the impending expiration date, the participant requesting an extension, and the Department processing and approving the extension. If these steps can be eliminated the financial impact will be reduced for all parties involved in the grant process.

The proposed three-year project period may impact project cost, that is, there will be more time for more work and thus the potential for more costs. How much this will actually affect costs and in turn the amount of funding requested is not known at this time. However, the applicant will be encouraged to limit the scope of project work to not more than two years and to reserve the remaining time for product review and project management. With fewer projects needing extensions, the participants and the Department should benefit without any change in the amounts of monies being awarded.

The grants that are approved from the Heritage Fund result in an average expenditure of \$980,000 annually. Many of these funds are expended to purchase goods and services from businesses in Arizona. The general public is the ultimate beneficiary of these rules. The activities and programs that are developed as a result of the Heritage Fund are intended to benefit wildlife and wildlife resources and also the general public for recreational and educational purposes. No additional costs are anticipated for the general public, private persons, and consumers who are directly or

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indirectly affected by the proposed rulemaking, and there are no small businesses directly subject to the proposed rulemaking since only governmental entities are eligible to apply for Heritage Grants.

The Department believes that the proposed rulemaking will reduce confusion for applicants and save both applicants and the Department time and money. The Department has determined that the benefits of the proposed rulemaking for R12-4-711 outweigh any costs.

**R12-4-712. Reporting and Record Requirements**

Except for those costs associated with the rulemaking itself, the proposed rulemaking will result in no added cost to the Arizona Game and Fish Department, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The proposed rule amendment eliminates unnecessary reporting requirements for Heritage Grant participants. The Department believes that requiring participants to submit quarterly status reports is not necessary for the control and management of Heritage Grant funded projects. The Department believes that reducing the reporting requirements will save participants and the Department both time and money, without impacting project quality or results.

The Department has determined that the benefits of the proposed rulemaking for R12-4-712 outweigh any costs.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Richard Maze, Heritage Fund Administrator  
Address: Arizona Game and Fish Department DOFP  
2221 West Greenway Road  
Phoenix, AZ 85023-4399  
Telephone: (602) 789-3526  
Fax: (602) 789-3358

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

The Arizona Game and Fish Commission will hold a public hearing and may take action to amend the rule on:

Date: Saturday, March 16, 2002  
Time: To be announced. The Commission Meeting Agenda will be available to the public on March 1, 2002. Copies of the Commission Meeting Agenda may be obtained by contacting the following person:  
Mark E. Naugle, Manager, Rules and Risk Management  
Arizona Game and Fish Department DORR  
2221 West Greenway Road  
Phoenix, AZ 85023-4399  
Telephone: (602) 789-3289  
Fax: (602) 789-3677  
Location: Arizona Game and Fish Department  
Kingman Regional Office  
5325 N. Stockton Hill Rd.  
Kingman, AZ

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the AGFD Deputy Director, 2221 W. Greenway Rd., Phoenix, AZ 85023, (602) 789-3290. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

The Arizona Game and Fish Department (AGFD) prohibits discrimination on the basis of race, color, sex, national origin, age, or disability in its programs and activities. If anyone believes that they have been discriminated against in any of the AGFD's programs or activities, including its employment practices, the individual may file a complaint alleging discrimination directly with the AGFD Deputy Director, 2221 W. Greenway Rd., Phoenix, AZ 85023, (602) 789-3290, or the U.S. Fish and Wildlife Service, 4040 N. Fairfax Dr., Ste. 130, Arlington, VA 22203.

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**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 7. HERITAGE GRANTS**

Section

R12-4-701.	Heritage Grant Definitions
R12-4-702.	General Provisions
R12-4-703.	Review of Proposals
R12-4-705.	Public Access Grants
R12-4-706.	Environmental Education Grants
R12-4-708.	<del>HAPAM</del> <u>IIPAM</u> : Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat
R12-4-709.	Grant Applications
R12-4-711.	<u>Grant-in-Aid</u> Participant Agreements
R12-4-712.	Reporting and Record Requirements

**ARTICLE 7. HERITAGE GRANTS**

**R12-4-701. Heritage Grant Definitions**

In addition to the definitions provided in A.R.S. §§ 17-101 and 17-296, the following definitions apply to the rules within this Article:

1. "Administrative subunit" means the branch, department, division, section, school, or other similar divisional entity of a public agency where a participant contact is directly employed, for example, an individual school, but not the entire school district; an individual field office or project office, but not the entire agency; or an individual administrative department, but not the entire city government.
- ~~1-2.~~ "Approved application" means the participant's application including any changes, exceptions, deletions, or additions made by the Department ~~prior to and for the purposes of~~ before approval.
2. ~~"Budget Prioritization Process" means a document approved by the Game and Fish Commission based upon the Department mission statement, strategic plans, and current guiding statements which define the Department's priorities. This process is also used for prioritizing grant applications.~~
3. "Commission" means the Game and Fish Commission.
- ~~3-4.~~ "Department" means the Game and Fish Department.
- ~~4-5.~~ "Facilities" means capital improvements.
- ~~5-6.~~ "Fund" means a granting source from the Game and Fish Heritage Fund, ~~pursuant to~~ under A.R.S. § 17-297.
- ~~6-~~ ~~"Commission" means the Game and Fish Commission.~~
7. "Grant effective date" means the date the Director of the Arizona Game and Fish Department signs the Grant-in-Aid Participant Agreement.
8. "Grant Prioritization Process" means a document approved by the Game and Fish Commission based upon the Department mission statement, strategic plans, and current guiding statements that defines the Department's priorities. This document is also used for prioritizing grant applications.
9. "Heritage Grant" means an Arizona Game and Fish Commission Heritage Fund Grant.
- ~~7-10.~~ "Participant" means an eligible applicant that has been awarded a grant from the fund.
11. "Participant Contact" means an eligible applicant's employee who has the responsibility for administration of a Heritage Grant funded project.
- ~~8-12.~~ "Project" means an activity, or series of related activities, which are described in the specific project scope of work and which result in specific products or services.
- ~~9-13.~~ "Project period" means the period of time during which all approved work and related expenditures associated with an approved project are to be accomplished by the participant.

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~~10.14.~~ “Public agency” means the federal government or any federal department or agency, Indian tribe, this state, all departments, agencies, boards, and commissions of this state, counties, school districts, cities, towns, all municipal corporations, and any other political subdivision of this state.

~~11.15.~~ “Specific scope of work” means the units of work to be accomplished by an approved project.

**R12-4-702. General Provisions**

- A. The application deadline is the last working day of November each year and funds become available July 1 of the following year. The Department shall ensure that the exact time and date for the application deadline and the exact application submission location are designated in the Arizona Game and Fish Department’s “Grant Application Manual.” The Department shall ensure that the “Heritage Grant Application Manual,” ~~containing~~ application forms and instructions, ~~and the Budget Grant Prioritization Process, and any annualized information on project emphasis for each fund~~ are available from the Department’s Funds Planning Section within the Phoenix office. ~~The Department shall also ensure that any annualized information on project emphasis for each fund is also available.~~
- B. Applicants shall be public agencies as defined in R12-4-701 and shall apply for Heritage grants in accordance with A.R.S. §§ 17-296, 17-297, ~~and 17-298,~~ and Commission rules within 12 A.A.C. 4, Article 7, ~~in order to be eligible for consideration. Applicants who have failed to comply with the rules or conditions of the participant in aid agreements~~ a Grant-in-Aid Participant Agreement are not eligible for further grants ~~if they have any project over 2 years old which has not been completed and closed, unless a formal extension has been requested and approved. until their project is brought into compliance.~~
- C. The Department shall notify applicants in writing of the results of their applications and announce grant awards at a regularly scheduled open meeting of the Game and Fish Commission. An unsuccessful applicant may submit an appeal regarding a grant award within 30 calendar days of the Commission meeting in accordance with ~~R12-4-608.~~ A.R.S. Title 41, Chapter 6, Article 10, Uniform Administrative Appeals Procedures.
- D. Participants shall not begin projects described in an application until ~~they have signed a participant in aid agreement. the grant effective date as defined in R12-4-701.~~ Participants shall complete projects as specified in the agreement Grant-in-Aid Participant Agreement. Participants shall submit records that substantiate the expenditure of funds.
- E. The participant shall operate and maintain properties, facilities, equipment, and services for the benefit of the public for the useful life of the project.
- F. The participant shall control land or waters on which capital improvements are to be made, through fee title, lease, easement, or agreement. To be eligible for a Heritage ~~grant~~ Grant, the applicant’s management or control rights to the proposed site ~~must shall~~ be equivalent to the proposed investment in at least 1 of the following 3 respects:
1. The time remaining on the use agreement is a term sufficient, in the judgment of the Department, to ensure a period of public use equal in value to the expenditure of awarded funds.
  2. The use agreement is not revocable at will by the property owner and provides for the option to renew by the managing agency.
  3. The applicant shall show evidence that public access exists to the actual site where the project is proposed, unless the purpose of the project proposal is to specifically create access or limit access.
- G. A participant shall give public acknowledgment of grant assistance for the life of a project. ~~When~~ If a project involves acquisition, development, or renovation, the participant shall install a permanent sign describing the funding sources and dollar amounts of all funds. The participant may include the cost of this signage as part of the original project, but ~~shall be~~ is responsible for maintenance or replacement of the sign as required. For other project types, the participant shall include funding acknowledgment on any publicly available or accessible products resulting from the project.
- H. The Department shall not accept project proposals for less than \$1000, ~~except that environmental education and school yard grant proposals may be as low as \$500.~~
- I. The participant shall pay operation and maintenance costs, including costs for reprinting of publications or other media.
- J. The participant shall not use grant funds to pay compensation in excess of the legally established salary for any permanent public employee.
- K.** If specified in the Grant-in-Aid Participant Agreement, including the Special Conditions attachment, the grant recipient shall be in compliance with local, state, and federal law and must provide evidence, as defined by the Department in the Special Conditions attachment, to the Department before the release of the initial grant funds and before project implementation.
- L.** If a participant contact has a Heritage Grant funded project in extension, the participant contact and the administrative subunit employing the participant contact are not eligible for further Heritage Grants until the project under extension is completed. This restriction does not apply to the participant contact’s public agency as a whole, or to any other participant contact employed by the same public agency in any other administrative subunit, so long as the other participant contact does not have a Heritage Grant funded project in extension. For the purposes of this restriction, the Department shall determine what constitutes an administrative subunit.



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**R12-4-703. Review of Proposals**

- A. Grant proposals are competitive and the Department shall make awards based on the basis of a proposed projects' project's compatibility with the priorities of the Game and Fish Department, project and the project's feasibility, merit, and usefulness. The Department shall evaluate and rank all eligible proposals pursuant to under the criteria established in these rules this Section and the Department's Budget Grant Prioritization Process as approved by the Commission and available from the Department's Funds Planning Section in the Phoenix office.
- B. The Department ~~may~~ shall make funding of ~~a~~ an awarded project contingent upon revision of the ~~proposal application if the Department determines that substantive changes are necessary for the successful completion of the project.~~

**R12-4-705. Public Access Grants**

- A. "Public access" ~~has the meaning prescribed in A.R.S. § 17-296(1), means providing entry to publicly held lands for recreational use where such entry is consistent with the provisions establishing those lands. (A.R.S. § 17-296(1)). Publicly held lands are those federal, public, and reserved lands, State Trust Lands, and other lands within the state of Arizona which are owned, controlled, or managed by the United States, the state of Arizona, agencies, or political subdivisions of the state.~~
- B. "Publicly held lands" means those federal, public, and reserved lands, State Trust Lands, and other lands within the state of Arizona that are owned, controlled, or managed by the United States, the state of Arizona, agencies, or political subdivisions of the state.
- ~~C.B.~~ In order to To be eligible for a public access grant award, applicants shall ensure that proposed projects are designed to increase or, maintain, or reduce public access for recreational use in cooperation with federal land managers, local and state governments, private landowners, and public users. Applicants shall also ensure that proposed projects are designed to and inform and educate the public about recreational use of publicly held lands and public access to those lands. To be eligible for Heritage access grant funding, applicants' potential projects shall provide for substantive recreational access opportunities. Examples include providing new access into an area where no access currently exists, re-establishing access into an area where access existed historically, maintaining or enhancing existing access routes to better serve a specific segment of the population, or relocating an existing access corridor to avoid biologically sensitive areas.
- D. Ineligible projects are those projects not in compliance with this Section and those project types listed as ineligible in the Heritage Grant Application Manual or other materials available from the Department's Funds Planning Section in the Phoenix office.

**R12-4-706. Environmental Education Grants**

- A. "Environmental education" ~~has the meaning prescribed in A.R.S. § 17-296(7), means educational programs dealing with basic ecological principles and the effects of natural and man related processes on natural and urban systems and programs to enhance public awareness of the importance of safeguarding natural resources. (A.R.S. § 17-296(7)).~~
- B. ~~In order to To~~ To be eligible for an environmental education grant, applicants shall ensure that project proposals are for no less than \$500 \$1,000 and no more than \$10,000, and that proposed projects are designed to:
1. Develop awareness, appreciation, and understanding of Arizona's wildlife and its environment and increase responsible actions toward wildlife;
  2. Use Arizona wildlife as its focus and present wildlife issues in a balanced and fair manner;
  3. Have impact on Arizona schools and school children.

**R12-4-708. HAPAM IIPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat**

- A. ~~The following definitions are established in A.R.S. § 17-296:~~
1. ~~"Habitat protection" means the process of protecting the quality, diversity, abundance, and serviceability of habitats for the purposes of maintaining or recovering populations of Arizona wildlife.~~
  2. ~~"Sensitive habitat" means the specific areas within the geographical area historically or currently occupied by a species or community of species in which are found those physical or biological features essential to the establishment or continued existence of the species and which may require special management, conservation, or protection considerations.~~
- A. "Habitat protection" has the meaning prescribed in A.R.S. § 17-296(9).
- B. "Sensitive habitat" has the meaning prescribed in A.R.S. § 17-296(2).
- ~~B.C.~~ In order to To be eligible for an HAPAM IIPAM grant, applicants an applicant shall ensure that the proposed projects are project is designed to:
1. Preserve and enhance Arizona's natural biological diversity, and
  2. Incorporate at least 1 of the following elements:
    - a. Identification, inventory, acquisition, protection, or management of sensitive habitat.
    - b. Inventory, identification, protection, or management of species as addressed within A.R.S. § 17-296.
- ~~C.D.~~ Each year the Department shall provide a listing of habitat and species as defined within A.R.S. § 17-296 which that it will consider in accordance with biological, conservation, and management status changes.

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**R12-4-709. Grant Applications**

- A. ~~In order to~~ To be eligible for a Heritage grant, an applicant shall submit a grant application in accordance with the schedule established by R12-4-702.
- B. The applicant shall submit a separate application for each funding source.
- C. The applicant shall submit the original plus 2 copies of each application on paper sized 8 1/2" x 11", and shall ensure that the original and the copies are legible.
- D. The Department shall not accept facsimile or "fax" "faxed" copies of a grant application.
- E. The applicant shall ensure that ~~the 1st page of the application is~~ the "Application Checklist" which lists all items ~~required~~ included within the application. The applicant shall check off an item if it is included within the application, and initial each item ~~which that~~ is not applicable.
- F. The applicant shall provide the following information on the grant application form:
1. Name of the eligible applicant;
  2. Any county and legislative district where the project will be developed or upon which the project will have impact;
  3. The official mailing address of the applicant;
  4. The name, title, and telephone number of the individual who will have the day-to-day responsibility for the proposed project;
  5. Identification of the particular grant fund from which assistance is being requested, ~~pursuant to~~ under R12-4-704, R12-4-705, R12-4-706, R12-4-707, or R12-4-708;
  6. The proposed project title incorporating the name of the site, if any, and the type of work to be accomplished;
  7. A clear and concise ~~scope~~ description of the scope and objective of the proposed project; ~~the nature of what is to be accomplished; the methods to be used; and the desired result from the project;~~
  8. The beginning and ending dates for the project; and
  9. The funding amounts that will be needed to accomplish the project, including the Heritage Grant funds requested, and evidence of secured matching funds or contributions.
- G. ~~The grant application form must be signed by an authorized agent of the public agency applying for the grant. The person who on behalf of the applicant has authority to bind the applicant to the terms of the Grant-in-Aid Participant Agreement shall sign the grant application form. The person and by signing, the authorized agent the grant application form represents that the applicant has authority to enter into agreements, accept funding, and fulfill the terms of the proposed project Grant-in-Aid Participant Agreement.~~
- H. The applicant shall submit a location map clearly identifying project locations or project proposal areas; and, if applicable, the applicant shall also submit a site plan and floor plan.
- I. The applicant shall submit with the grant application the following information to provide evidence of control and tenure at the project site. The Department shall determine the appropriateness of the evidence of control and tenure as a part of the grant application review process:
1. If the project site is owned by the applicant, a copy of the ~~appropriate~~ legal document showing title in the name of the applicant and the legal description of the property;
  2. If the project site will be managed by the applicant, a copy of the lease, special use permit, intergovernmental agreement, or other ~~appropriate~~ official instrument or documentation; or
  3. For research project proposals relating to sites not controlled by the applicant, a copy of the permit or agreement allowing the research or, at a minimum, ~~a letter of intent~~ evidence of permission from the land manager allowing the research.
- J. The applicant shall submit an estimated project cost sheet form with the following information:
1. Project title as designated on the application form;
  2. If applicable, pre-agreement costs requested;
  3. If applicable, all estimated development costs in order of priority of need, facilities to be constructed, unit measurements, number of items, and total costs;
  4. All land parcels to be acquired listed in priority order; with acreage involved; and anticipated dates of acquisition;
  5. The cost, title, and name of personnel who would accomplish the project objectives and who would receive benefit from the grant; and
  6. ~~The applicant shall provide the~~ total cost for the entire project proposal ~~and list~~ with each of the following amounts listed separately:
    - a. Heritage grant funds requested;
    - b. Applicant contribution to the project, if applicable; and
    - c. Any other sources of funding.
- ~~K. The applicant is responsible for securing all documentation necessary to comply with local, state, or federal law, and for providing copies of all required compliance documents to the Department prior to project implementation.~~
- ~~L-K.~~ The applicant shall answer all questions relevant to the grant applied for and to the Budget Grant Prioritization Process by which the Department evaluates and ranks proposals.

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**R12-4-711. Grant-in-Aid Participant Agreements**

~~Prior to~~ Before any transfer of funds, a participant shall agree to and sign a ~~participant agreement~~ Grant-in-Aid Participant Agreement, which includes the following minimum stipulations:

1. The participant shall use awarded grant funds solely for eligible purposes of the funding program as defined by law and as approved by the Department. The participant shall not exceed the grant allocation unless the parties amend the ~~participant agreement~~ Grant-in-Aid Participant Agreement.
2. If both parties agree that all project costs ~~must~~ shall be expended within the first quarter ~~of the project period~~, the Department shall transfer the total amount of awarded grant funds to the participant within the first quarter ~~of the project period~~. In all other cases, the Department shall transfer awarded grant funds, less 10%, to the participant within one year of the ~~grant award~~ grant effective date. The Department shall transfer the final 10% ~~less any adjustment for actual expenditures~~ upon receipt of a written request and a certification of project completion from the participant, unless the participant violates state law or the ~~participant agreement~~ Grant-in-Aid Participant Agreement. The Department ~~may~~ has the authority under the Grant-in-Aid Participant Agreement to perform completion inspections ~~prior to and reviews before~~ release of final payment.
3. The participant shall deposit transferred grant funds in a separate project account carrying the name and number of the project. The participant shall expend funds from the account only as authorized under the terms of the ~~agreement~~ Grant-in-Aid Participant Agreement.
4. The participant may request changes to the terms, scope, conditions, or provisions of the ~~agreement~~ Grant-in-Aid Participant Agreement ~~in by~~ writing to the Department. Requests for extension beyond the approved project period shall be submitted by the participant no later than 30 days ~~prior to before~~ the contract expiration date. The Department shall prepare in writing any approved amendments, which must be signed by both the participant and the Department ~~in order~~ to be valid.
5. Notwithstanding subsection (4), the Department may issue an administrative extension to unilaterally extend the project period by no more than 90 days ~~when necessary~~ to perform completion inspections or to ~~develop an amendment for extension of the project period~~ complete administrative work when completion inspections or administrative work cannot be completed within the time-frame of the existing Grant-in-Aid Participant Agreement.
6. If the participant violates state law or the ~~participant agreement~~ Grant-in-Aid Participant Agreement, the Department ~~may~~ shall seek recovery of all funds granted and classify the participant as ineligible for Heritage Funds grants for a period not to exceed five years.
7. A participant shall operate and maintain grant-assisted capital improvements and provide reasonable protection of any project improvements.
8. A participant sponsoring a 3rd party or subcontractors is responsible for compliance with ~~agreement~~ the Grant-in-Aid Participant Agreement provisions in the event of 3rd party or subcontractor default.
9. Participants shall use awarded grant funds solely for those costs associated with approved project work incurred during the project period.
10. The project period is designated to be ~~2~~ three years from the grant effective date ~~of the agreement~~ unless otherwise agreed upon by the Department and the participant.
11. Should a balance of awarded grant funds be available upon completion of approved project elements, the participant may, with Department approval, develop additional scope elements.
12. The participant shall request amendments to accommodate additions or changes to the ~~agreement~~ Grant-in-Aid Participant Agreement in writing, stating the need and rationale for the amendments.
13. The participant shall use equipment purchased with grant funds for ~~a~~ an approved public purpose for the useful life of the equipment, or surrender the equipment to the Department upon completion of the project, whichever comes first, if the equipment has an acquisition cost of greater than \$500. If the equipment is sold, the participant shall pay the Department the amount of any resulting proceeds in the ratio equivalent to the funds provided for the purchase.
14. The participant shall ensure that values of real property purchased with grant assistance are appraised by ~~an~~ a Arizona certified appraiser within one year before the purchase or lease according to the Uniform Standards of Professional Appraisal Practice. The Department may select an appraiser for independent evaluation when the Department has evidence that the appraised value of real property is not accurate as submitted by the participant. The Department's acceptance of land conveyance documents is contingent upon approval by the Game and Fish Commission and the governor.
15. ~~Failure~~ The Department shall delay grant payment to a participant who fails to submit project-status reports as required in R12-4-712 ~~shall delay grant reimbursement or processing~~ until the participant has submitted all past due project-status reports.
16. The Department ~~may~~ has the authority under the Grant-in-Aid Participant Agreement to conduct inspections to assure compliance with all terms of the contract.
17. A participant shall not use grant funds for the purpose of producing income. However, the participant may engage in income-producing activities incidental to the accomplishment of approved purposes if the participant uses the activities to further the purposes of the approved project or returns the income to the original funding source designated in

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the ~~agreement~~ Grant-in-Aid Participant Agreement. The participant shall return funds remaining at the end of the project period to the Department.

**R12-4-712. Reporting and Record Requirements**

- A. ~~Within 30 days after the end of each quarter, participants~~ Participants shall submit a ~~quarterly~~ biannual project-status ~~report~~ reports to the Department covering activities for the ~~quarter that just ended~~ project period, unless otherwise specified in the Grant-in-Aid Participant Agreement, including the Special Conditions attachment. The exact timing of the submission of reports to the Department will be as specified in the Grant-in-Aid Participant Agreement and the Special Conditions attachment. Participants shall ~~ensure that this~~ include a separate section in each report includes Section a covering ~~each~~ all of the following subjects:
1. Progress in completing approved work,
  2. ~~Budget, Itemized, cumulative project expenditures, and~~
  3. Anticipated delays and problems preventing ~~expeditious~~ on-time completion of the project.
- B. Participants shall account for income or interest derived from project funds in their report.
- C. Each participant shall retain and shall contractually require each subcontractor to retain all books, accounts, reports, files, and other records relating to the acquisition and performance of the contract for a period of 5 years after the completion of the contract. The Department may inspect and audit participant and subcontractor records based on verified complaints or evidence that indicates the need for such an inspection or audit. Upon the Department's request, a participant or subcontractor shall produce a legible copy of these records. The participant shall bear full responsibility for acceptable performance by a subcontractor under each subcontract. The participant may substitute microfilm copies in place of the original records after project costs have been verified.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 20. COMMERCE, BANKING AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R20-6-1101                         | Amend                           |
| R20-6-1102                         | Amend                           |
| R20-6-1103                         | Amend                           |
| R20-6-1104                         | Amend                           |
| R20-6-1105                         | Amend                           |
| R20-6-1111                         | Amend                           |
| R20-6-1121                         | Amend                           |
| Appendix B                         | Amend                           |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statutes: A.R.S. §§ 20-143, 20-1133; 42 U.S.C. § 1395
- Implementing statutes: A.R.S. §§ 20-142 and 20-143
- 3. List of all previous notices appearing in the register addressing the proposed rules:**
- None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Margaret L. McClelland   |
| Address:   | Department of Insurance<br>2910 N. 44th Street, Suite 210<br>Phoenix, AZ 85018 |
| Telephone: | (602) 912-8456   |
| Fax:       | (602) 912-8452   |

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**5. An explanation of the rules, including the agency's reasons for initiating the rules:**

The rule is necessary to conform Arizona's Medicare supplement insurance rules with the recently adopted federal regulations pertaining to the Medicare program.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**7. A showing of good cause why the rules is necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

None

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Department does not anticipate that the rule changes will have significant economic impact on the Department or other interested parties. Changes to deductibles and reimbursements rates are mandated by federal law, not due to this rulemaking.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Margaret L. McClelland  
Address: Arizona Department of Insurance  
2910 N. 44th Street, Suite 210  
Phoenix, AZ 85018  
Telephone: (602) 912-8456  
Fax: (602) 912-8452

**10. The time, place and nature of the proceeding for the admission, amendment or repeal of the rules or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rules:**

The Department invites and will accept written comment during regular business hours at the address listed in item #4 until the close of the record at 5:00 p.m. on February 8, 2002 concerning the Medicare supplemental insurance rules to be revised as a part of this rulemaking process. An oral hearing will not be held unless it is requested prior to the close of record date.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**ARTICLE 11. MEDICARE SUPPLEMENT INSURANCE**

Section

R20-6-1101.	Amend
R20-6-1102.	Amend
R20-6-1103.	Amend
R20-6-1104.	Amend
R20-6-1105.	Amend
R20-6-1111.	Amend
R20-6-1121.	Amend
Appendix B.	Amend

**ARTICLE 11. MEDICARE SUPPLEMENT INSURANCE**

**R20-6-1101. Applicability and Scope**

- A. No change
- B. This Article does not apply to a policy or contract of:
1. ~~1~~ One or more employers or labor organizations; ~~or of~~
  2. ~~the~~ The trustees of a fund established by ~~1~~ one or more employers or labor organizations or combination of employers and labor organizations, for their employees, former employees, or a combination of employees and former employees, or for members, former members, or a combination of members and former members of the labor organizations.

**R20-6-1102. Definitions**

In this Article, the definitions in A.R.S. §§ 20-102 through 20-105 and the following definitions apply.

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. "Creditable coverage" means the type of insurance coverage described in § R20-6-1102.01.
13. No change
14. No change
15. "Home" means any place used by an insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility ~~shall~~ is not be considered the insured's place of residence.
16. No change
17. No change
18. No change
19. "Medicare+Choice plan" means a plan of coverage for health benefits under Medicare Part C as defined in ~~P.L. 105-33 Title IV, Subtitle A, Ch. 1, § 1859~~ 42 U.S.C. § 1395w-28(b)(1), and includes:
  - a. No change
  - b. No change
  - c. No change
20. No change
21. No change
22. No change
23. No change
24. No change
25. No change
26. No change
27. No change
28. No change

**R20-6-1103. Policy Definitions and Terms; Policy Provisions**

- A. ~~No policy or certificate may be advertised, solicited or issued~~ A person shall not advertise, solicit or issue for delivery in this state ~~as~~ a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms ~~which~~ that conform to the requirements of this subsection:
1. No change
    - a. No change
    - b. ~~Such~~ The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or under any motor vehicle no-fault plan, unless prohibited by law.
  2. No change
  3. No change
  4. No change
  5. No change

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6. No change
7. No change
8. No change
9. No change

- B.** Except for permitted preexisting condition clauses as described in R20-6-1104(B)(1) and R20-6-1105(B)(1) of this Article, ~~no policy or certificate may be advertised, solicited or issued~~ a person shall not advertise, solicit or issue for delivery in this state a Medicare supplement ~~if such policy or certificate with contains~~ limitations or exclusions on coverage that are more restrictive than those of Medicare.
- C.** ~~A No~~ Medicare supplement policy or certificate ~~shall not may~~ use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.
- D.** ~~A No~~ Medicare supplement policy or certificate in force in this state shall ~~not~~ contain benefits ~~that which~~ duplicate benefits provided by Medicare.

**R20-6-1104. Minimum Benefit Standards for Policies or Certificates Issued for Delivery Before April 1, 1992**

- A.** ~~A person shall not advertise, solicit, or issue a No~~ policy or certificate ~~may be advertised, solicited, or issued~~ for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the ~~following~~ minimum standards ~~listed in this Section~~. These ~~are~~ minimum standards ~~and~~ do not preclude the inclusion of other provisions or benefits that are not inconsistent with these standards.
- B.** No change
- C.** No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare-eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible [\$100]; and
  7. No change

**R20-6-1105. Benefit Standards for Policies or Certificates Issued or Delivered on or After April 1, 1992**

- A.** No change
- B.** General standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this Article.
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change
  9. No change
  10. No change
    - a. No change
    - b. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended for any period that may be provided by federal regulation at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social Security Act and is covered under a group health plan as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act. If the policy is suspended and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstituted, effective as of the date of loss of coverage, if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.
    - ~~b.c.~~ Reinstitution of coverage under subsection (B)(10)(a) or (b):
      - i. No change
      - ii. No change
      - iii. No change
- C.** No change

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1. No change
2. No change
3. No change
4. No change
5. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare-eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

**D.** No change

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. Preventive medical care benefit: Coverage for the following preventive health services:
  - a. No change
  - b. Any ~~+~~ one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:
    - i. ~~Fecal occult blood test or digital~~ Digital rectal examination; ~~or both;~~
    - ~~ii. Mammogram;~~
    - ~~ii, iii.~~ No change
    - ~~iii, iv.~~ No change
    - ~~iv, v.~~ No change
    - ~~v, vi.~~ No change
    - ~~vi, vii.~~ No change
  - c. ~~Influenza vaccine administered at any appropriate time during the year and tetanus~~ Tetanus and diphtheria booster every 10 years;
  - d. No change
  - e. No change
10. No change
11. No change

**R20-6-1111. Filing and Approval of Policies and Certificates and Premium Rates**

- A.** No change
- B.** No change
- C.** No change
- D.** No change
- E.** Except as provided in ~~the following paragraph of~~ this subsection, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in R20-6-1110. Forms assumed under an assumption re-insurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculations.

**R20-6-1121. Guaranteed Issue for Eligible Persons**

**A.** Guaranteed Issue

1. An eligible person is an individual described in subsection (B) who:
  - a. ~~Applies to enroll under a Medicare supplement policy not later than 63 days after the date of the termination of enrollment described in subsection (B)~~ Seeks to enroll under a Medicare supplement policy during the period specified in subsection (C), and
  - b. Submits evidence of the date of termination or disenrollment with the application for the policy.
2. With respect to an eligible person, an issuer shall not:
  - a. Deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection ~~(C)~~ (E) that is offered and is available for issuance to new enrollees by the issuer;
  - b. No change
  - c. No change

**B.** Eligible Person. An eligible person is an individual described in any of the subsections (B)(1) through (B)(6) below:

1. No change



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2. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, and any of the following circumstances apply:
  - a. The organization's or plan's certification has been terminated ~~or the organization terminated or otherwise discontinued providing the plan in the area in which the individual resides;~~
  - b. The organization has terminated or otherwise discontinued providing the plan in the area where the individual resides;
  - ~~b.c.~~ No change
  - ~~c.d.~~ No change
3. The individual is 65 years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and any of the conditions listed in subsection (B)(2) apply;
- ~~3-4.~~ The individual is enrolled with an organization listed in this subsection and the enrollment ceased under the same circumstances that would permit discontinuance of an individual's election of coverage under subsection (B)(2) or (B)(3):
  - a. An eligible organization under a contract under Section 1876 of the Social Security Act (Medicare risk or cost);
  - b. No change
  - c. An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or
  - d. No change
- ~~4-5.~~ No change
- ~~5-6.~~ The individual meets both of the following conditions:
  - a. No change
    - i. Any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare,
    - ii. Any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare risk or cost),
    - iii. No change
    - iv. Any PACE provider under Section 1894 of the Social Security Act ~~An organization under an agreement, under Section 1833(a)(1)(A) (health care prepayment plan), or~~
    - v. No change
  - b. No change
- ~~6-7.~~ The individual, upon ~~first~~ first becoming eligible for benefits under Part A of Medicare at age 65, enrolls in a Medicare+Choice plan under Part C of Medicare or with a PACE provider under Section 1894 of the Social Security Act, and disenrolls from the plan or program not later than 12 months after the effective date of enrollment.

**C. Guaranteed Issue Time Periods**

1. In the case of an eligible person described in subsection (B)(1), the guaranteed issue period:
  - a. Begins on the date the individual receives a notice of termination or cessation of all supplemental health benefits, or, if a notice is not received, notice that a claim has been denied because of a termination or cessation, and
  - b. Ends sixty-three days after the date of the applicable notice;
2. In the case of an individual described in subsections (B)(2), (B)(3), (B)(4), (B)(6) or (B)(7) whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three days after the date the applicable coverage is terminated;
3. In the case of an individual described in subsection (B)(5)(a):
  - a. The guaranteed issue period begins on the earlier of:
    - i. The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other similar notice, if any, and
    - ii. The date that the applicable coverage is terminated.
  - b. The guaranteed issue period ends on the date that is sixty-three days after the date that coverage terminates.
4. In the case of an individual described in subsections (B)(2), (B)(5)(b), (B)(5)(c), (B)(6) or (B)(7) who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty days before the effective date of the disenrollment and ends on the date that is sixty-three days after the effective date; and
5. In the case of an individual described in subsection (B) but not described in the preceding provisions of this subsection, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three days after that effective date.

**D. Extended Medigap Access for Interrupted Trial Periods**

1. In the case of an individual described in subsection (B)(6) (or deemed to be so described, under this subsection) whose enrollment with an organization or provider described in subsection (B)(6)(a) is involuntarily terminated within the first twelve months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment is deemed to be an initial enrollment described in subsection (B)(6).

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2. In the case of an individual described in subsection (B)(7) (or deemed to be so described, under this subsection) whose enrollment with a plan or in a program described in subsection (B)(7) is involuntarily terminated within the first twelve months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment is deemed to be an initial enrollment under subsection (B)(7); and
3. For purposes of subsections (B)(6) and (B)(7), an individual's enrollment with an organization or provider described in subsection (B)(6)(a), or with a plan or in a program described in subsection (B)(7) shall not be an initial enrollment under this subsection after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program.

**~~E~~.E.** An eligible person is entitled to the following Medicare supplement policy:

1. Under subsections (B)(1) through (B)(~~5~~4): a Medicare supplement policy that has a benefit package classified as Plan A, B, C, or F offered by an insurer;
2. Under subsection (B)(~~5~~5): the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same insurer, or, if not available, a policy described in subsection (~~E~~E)(1); and
3. Under subsection (B)(~~7~~6): any Medicare supplement policy offered by any insurer.

**~~D~~.F.** No change

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**Appendix B**

[12 point]

[COMPANY NAME]

**OUTLINE OF MEDICARE SUPPLEMENT COVERAGE - COVER PAGE:**

**BENEFIT PLAN(s) \_\_\_\_\_[insert letter(s) of plan(s) being offered]**

Medicare supplement insurance can be sold in only ~~10~~ ten standard ~~plans~~ Plans plus two high deductible ~~plans~~ Plans. This chart shows the benefits included in each ~~plan~~ Plan. Every company must make available Plan "A". Some ~~plans~~ Plans may not be available in ~~Arizona~~ [your state or Arizona].

BASIC BENEFITS: Included in ~~all~~ all Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (Generally [20]% of Medicare-approved expenses), or, in the case of hospital outpatient department services under a prospective payment system, applicable copayments.

Blood: First ~~3~~ three pints of blood each year.

A	B	C	D	E	F F*	G	H	I	J J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible				Part B Deductible
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery			At-Home Recovery		At-Home Recovery	At-Home Recovery
							Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)
				Preventive Care					Preventive Care

\* Plans F and J also have an option called a high deductible ~~plan~~ Plan F and a high deductible ~~plan~~ Plan J. These high deductible ~~plans~~ Plans pay the same or offer the same benefits as Plans F and J after you have paid a calendar year [~~\$1,500~~ \$1,620] deductible. Benefits from high deductible ~~plans~~ Plans F and J will not begin until your out-of-pocket expenses are [~~\$1,500~~ \$1,620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and B, but do not include, in ~~plan~~ Plan J, the ~~plan's~~ Plan's separate prescription drug deductible or, in Plans F and J, the ~~plan's~~ Plan's separate foreign travel emergency deductible.

**Appendix B (Continued)**

**PREMIUM INFORMATION [boldface type]**

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

**DISCLOSURES [boldface type]**

Use this outline to compare benefits and premiums among policies. Bracketed amounts are subject to annual change.

**READ YOUR POLICY VERY CAREFULLY [boldface type]**

This is only an outline, describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

**RIGHT TO RETURN POLICY [boldface type]**

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

**POLICY REPLACEMENT [boldface type]**

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

**NOTICE [boldface type]**

This policy may not fully cover all of your medical costs.

[for agents] Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:] [insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult ~~'The Medicare Handbook'~~ "Medicare & You" for more details.

**COMPLETE ANSWERS ARE VERY IMPORTANT [boldface type]**

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each ~~plan~~ Plan prominently identified in the cover page a chart showing the services. Medicare payments, ~~plan~~ Plan payments and insured payments for each ~~plan~~ Plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than ~~4~~ four plans may be shown on ~~1~~ one chart. For purposes of illustration, charts for each ~~plan~~ Plan are included in this appendix. An issuer may use additional benefit ~~plan~~ Plan designations on these charts under R20-6-1106.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Director.]

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**Appendix B (Continued) - Plan A**

**PLAN A**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~1st~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$ <del>768</del> <u>812</u>	\$0	\$ <del>768</del> <u>812</u> (Part A Deductible)
61st thru 90th day	All but \$ <del>192</del> <u>203</u> a day	\$ <del>192</del> <u>203</u> a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$ <del>384</del> <u>406</u> a day	\$ <del>384</del> <u>406</u> a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$ <del>96.00</del> <u>101.50</u>	\$0	Up to \$ <del>96.00</del> <u>101.50</u> a day
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**Appendix B (Continued) - Plan A**

**PLAN A**

**MEDICARE (PART B) - MEDICAL SERVICES-PER CALENDAR YEAR**

No change

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**Appendix B (Continued) - Plan B**

**PLAN B**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~1<sup>st</sup>~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[ <del>768</del> <u>812</u> ]	\$[ <del>768</del> <u>812</u> ] (Part A Deductible)	\$0
61st thru 90th day	All but \$[ <del>192</del> <u>203</u> ] a day	\$[ <del>192</del> <u>203</u> ] a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$[ <del>384</del> <u>406</u> ] a day	\$[ <del>384</del> <u>406</u> ] a day	\$0
- Once lifetime reserve days are used			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs

**SKILLED NURSING FACILITY CARE \***

You must meet Medicare's requirements, including having been in a hospital for at least ~~3~~ three days and entered a Medicare-approved facility within 30 days after leaving the hospital.

First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[ <del>96.00</del> <u>101.50</u> ]	\$0	Up to \$[ <del>96.00</del> <u>101.50</u> ] a day
101st day and after	\$0	\$0	All costs

**BLOOD**

First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0

**HOSPICE CARE**

Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
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**Appendix B (Continued) - Plan B**

**PLAN B**

**MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

No change



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**Appendix B (Continued) - Plan C**

**PLAN C**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~4<sup>th</sup>~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[ <del>768</del> <u>812</u> ]	\$[ <del>768</del> <u>812</u> ] (Part A Deductible)	\$0
61st thru 90th day	All but \$[ <del>192</del> <u>203</u> ] a day	\$[ <del>192</del> <u>203</u> ] a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$[ <del>384</del> <u>406</u> ] a day	\$[ <del>384</del> <u>406</u> ] a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[ <del>96.00</del> <u>101.50</u> ] a day	Up to \$[ <del>96.00</del> <u>101.50</u> ] a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**Appendix B (Continued) - Plan C**

**PLAN C**

**MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

No change

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**Appendix B (Continued) - Plan D**

**PLAN D**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~4<sup>th</sup>~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$ <del>768</del> <u>812</u>	\$ <del>768</del> <u>812</u> (Part A Deductible)	\$0
61st thru 90th day	All but \$ <del>192</del> <u>203</u> a day	\$ <del>192</del> <u>203</u> a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$ <del>384</del> <u>406</u> a day	\$ <del>384</del> <u>406</u> a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$ <del>96.00</del> <u>101.50</u> a day	Up to \$ <del>96.00</del> <u>101.50</u> a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**Appendix B (Continued) - Plan D**

**PLAN D**

**MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

No change

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan E**

**PLAN E**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~1st~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$ <del>768</del> <u>812</u> ]	\$ <del>768</del> <u>812</u> ] (Part A Deductible)	\$0
61st thru 90th day	All but \$ <del>192</del> <u>203</u> ] a day	\$ <del>192</del> <u>203</u> ] a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$ <del>384</del> <u>406</u> ] a day	\$ <del>384</del> <u>406</u> ] a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$ <del>96.00</del> <u>101.50</u> ] a day	Up to \$ <del>96.00</del> <u>101.50</u> ] a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**Appendix B (Continued) - Plan E**

**PLAN E**

**MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

No change

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan F**

**PLAN F or HIGH DEDUCTIBLE PLAN F  
 MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~4<sup>th</sup>~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

\*\* This high deductible ~~plan~~ Plan pays the same or offers the same benefits as Plan F after you have paid a calendar year [~~\$1500~~ 1620] deductible. Benefits from the high deductible ~~plan~~ Plan F will not begin until your out-of-pocket expenses are [~~\$1500~~ 1620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the ~~plan~~ Plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY <del>\$1500</del> <u>1620</u> DEDUCTIBLE** PLAN PAYS	IN ADDITION TO <del>\$1500</del> <u>1620</u> DEDUCTIBLE* YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>[\$768</del> <u>812]</u>	<del>[\$768</del> <u>812]</u> (Part A Deductible)	\$0
61st thru 90th day	All but <del>[\$192</del> <u>203]</u> a day	<del>[\$192</del> <u>203]</u> a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>[\$384</del> <u>406]</u> a day	<del>[\$384</del> <u>406]</u> a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but <del>[\$96.00</del> <u>101.50]</u> a day	Up to <del>[\$96.00</del> <u>101.50]</u> a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan F**

**PLAN F or HIGH DEDUCTIBLE PLAN F**  
**MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

\* Once you have been billed \$[100] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

\*\* This high deductible ~~plan~~ Plan pays the same or offers the same benefits as Plan F after you have paid a calendar year [~~\$1500~~ 1620] deductible. Benefits from the high deductible Plan F will not begin until your out-of-pocket expenses are [~~\$1500~~ 1620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the ~~plan's~~ Plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY <del>\$1500</del> <u>1620</u> DEDUCTIBLE** PLAN PAYS	IN ADDITION TO <del>\$1500</del> <u>1620</u> DEDUCTIBLE* YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as</b> Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$[100] of Medicare-Approved Amounts *	\$0	\$[100] (the Part B Deductible)	\$0
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	100%	\$0
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	All costs	\$0
Next \$[100] of Medicare-Approved Amounts *	\$0	\$[100] (Part B Deductible)	
Remainder of Medicare-Approved Amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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**PARTS A & B**

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**HOME HEALTH CARE**

**MEDICARE-APPROVED SERVICES**

- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$[100] of Medicare-Approved Amount *	\$0	\$[100] (Part B Deductible)	\$0
Remainder of Medicare-Approved Amounts	80%	20%	\$0

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**OTHER BENEFITS-NOT COVERED BY MEDICARE**

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<b>SERVICES</b>	<b>MEDICARE PAYS</b>	<b>AFTER YOU PAY <del>\$1500</del> <u>1620</u> DEDUCTIBLE** PLAN PAYS</b>	<b>IN ADDITION TO <del>\$1500</del> <u>1620</u> DEDUCTIBLE* YOU PAY</b>
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**FOREIGN TRAVEL - NOT COVERED BY MEDICARE**

Medically necessary emergency care services during the 1st 60 days of each trip outside the USA

First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over \$50,000 lifetime maximum

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**Arizona Administrative Register**  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan G**

**PLAN G**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~1<sup>st</sup>~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[ <del>768</del> <u>812</u> ]	\$[ <del>768</del> <u>812</u> ] (Part A Deductible)	\$0
61st thru 90th day	All but \$[ <del>192</del> <u>203</u> ] a day	\$[ <del>192</del> <u>203</u> ] a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$[ <del>384</del> <u>406</u> ] a day	\$[ <del>384</del> <u>406</u> ] a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[ <del>96.00</del> <u>101.50</u> ] a day	Up to \$[ <del>96.00</del> <u>101.50</u> ] a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**Appendix B (Continued) - Plan G**

**PLAN G**

**MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

No change

**Arizona Administrative Register**  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan H**

**PLAN H**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~4<sup>th</sup>~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[ <del>768</del> <u>812</u> ]	\$[ <del>768</del> <u>812</u> ] (Part A Deductible)	\$0
61st thru 90th day	All but \$[ <del>192</del> <u>203</u> ] a day	\$[ <del>192</del> <u>203</u> ] a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$[ <del>384</del> <u>406</u> ] a day	\$[ <del>384</del> <u>406</u> ] a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[ <del>96.00</del> <u>101.50</u> ] a day	Up to \$[ <del>96.00</del> <u>101.50</u> ] a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**Appendix B (Continued) - Plan H**

**PLAN H**

**MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

No change

**Arizona Administrative Register**  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan I**

**PLAN I**  
**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~4<sup>th</sup>~~ 1<sup>st</sup> day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[ <del>768</del> <u>812</u> ]	\$[ <del>768</del> <u>812</u> ] (Part A Deductible)	\$0
61st thru 90th day	All but \$[ <del>192</del> <u>203</u> ] a day	\$[ <del>192</del> <u>203</u> ] a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$[ <del>384</del> <u>406</u> ] a day	\$[ <del>384</del> <u>406</u> ] a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[ <del>96.00</del> <u>101.50</u> ] a day	Up to \$[ <del>96.00</del> <u>101.50</u> ] a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**Appendix B (Continued) - Plan I**

**PLAN I**

**MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

No change

**Arizona Administrative Register**  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan J**

**PLAN J or HIGH DEDUCTIBLE PLAN J**  
**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\* A benefit period begins on the ~~1<sup>st</sup>~~ first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

\*\* This high deductible ~~plan~~ Plan pays the same or offers the same benefits as Plan J after you have paid a calendar year [~~\$1500~~ 1620] deductible. Benefits from the high deductible Plan J will not begin until your out-of-pocket expenses are [~~\$1500~~ 1620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the ~~plan's~~ Plan's separate prescription drug deductible or the ~~plan's~~ Plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY <del>\$1500</del> <u>1620</u> DEDUCTIBLE** PLAN PAYS	IN ADDITION TO <del>\$1500</del> <u>1620</u> DEDUCTIBLE* YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>[\$768</del> <u>812]</u>	<del>[\$768</del> <u>812]</u> (Part A Deductible)	\$0
61st thru 90th day	All but <del>[\$192</del> <u>203]</u> a day	<del>[\$192</del> <u>203]</u> a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>[\$384</del> <u>406]</u> a day	<del>[\$384</del> <u>406]</u> a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare-Eligible Expenses	\$0
- Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE *</b>			
You must meet Medicare's requirements, including having been in a hospital for at least <del>3</del> <u>three</u> days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but <del>[\$96.00</del> <u>101.50]</u> a day	Up to <del>[\$96.00</del> <u>101.50]</u> a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First <del>3</del> <u>three</u> pints	\$0	<del>3</del> <u>three</u> pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for patient drugs and inpatient respite care	\$0	Balance



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan J**

**PLAN J or HIGH DEDUCTIBLE PLAN J  
 MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

\* Once you have been billed \$[100] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

\*\* This high deductible ~~plan~~ Plan pays the same or offers the same benefits as Plan J after you have paid a calendar year [~~\$1500~~ 1620] deductible. Benefits from the high deductible Plan J will not begin until your out-of-pocket expenses are [~~\$1500~~ 1620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the ~~plan's~~ Plan's separate prescription drug deductible or the ~~plan's~~ Plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY <del>\$1500</del> <u>1620</u> DEDUCTIBLE** PLAN PAYS	IN ADDITION TO <del>\$1500</del> <u>1620</u> DEDUCTIBLE* YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$[100] of Medicare-Approved Amounts * (the Part B Deductible)	\$0	\$[100]	\$0
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	100%	\$0
BLOOD			
First <del>3</del> <u>three</u> pints	\$0	All costs	\$0
Next \$[100] of Medicare-Approved Amounts *	\$0	\$[100] (Part B Deductible)	\$0
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

**PARTS A & B**

**HOME HEALTH CARE**

**MEDICARE-APPROVED SERVICES**

- Medically necessary skilled care services and medical supplies

100%

\$0

\$0

- Durable medical equipment

First \$[100] of Medicare-Approved Amounts \*

\$0

\$[100] (Part B Deductible)

\$0

Remainder of Medicare-Approved Amounts

80%

20%

\$0

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

**Appendix B (Continued) - Plan J**

**PLAN J or HIGH DEDUCTIBLE PLAN J  
 MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR**

SERVICES	MEDICARE PAYS	AFTER YOU PAY <del>\$1500</del> <u>1620</u> DEDUCTIBLE** PLAN PAYS	IN ADDITION TO <del>\$1500</del> <u>1620</u> DEDUCTIBLE* YOU PAY
<b>AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE</b>			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
- Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within <del>8</del> <u>eight</u> weeks of last Medicare-Approved visit)	\$0	Up to the number of Medicare-Approved visits, not to exceed <del>7</del> <u>seven</u> each week	
- Calendar year maximum	\$0	\$1,600	

**OTHER BENEFITS - NOT COVERED BY MEDICARE**

SERVICES	MEDICARE PAYS	AFTER YOU PAY <del>\$1500</del> <u>1620</u> DEDUCTIBLE** PLAN PAYS	IN ADDITION TO <del>\$1500</del> <u>1620</u> DEDUCTIBLE* YOU PAY
<b>EXTENDED OUTPATIENT PRESCRIPTION DRUGS - NOT COVERED BY MEDICARE</b>			
First \$250 each calendar year	\$0	\$0	\$250
Next \$6,000 each calendar year	\$0	50% - \$3,000 cal- endar year maximum benefit	50%
Over \$6,000 each calendar year	\$0	\$0	All costs

**\*\*\*PREVENTIVE MEDICAL CARE BENEFIT - NOT  
COVERED BY MEDICARE**

Some annual physical and preventive tests and services, such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education administered or ordered by your doctor when not covered by Medicare

First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All costs

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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**Appendix B (Continued)**

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>OTHER BENEFITS (Continued)</b>			
FOREIGN TRAVEL - NOT COVERED BY MEDICARE			
Medically necessary emergency care services during the <del>1st</del> <u>first</u> 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over \$50,000 lifetime maximum

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\*\*\*Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.